

*In the Matter Of:*

RE HONORABLE JULIE A. INTROCASO

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HONORABLE JULIE A. INTROCASO

February 08, 2021

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<p>THE STATE OF NEW HAMPSHIRE JUDICIAL CONDUCT COMMITTEE</p> <p>* * * * *</p> <p>IN RE: * Case Nos.: * JC-19-050-C</p> <p>HONORABLE JULIE A. INTROCASO * JC-20-010-C</p> <p>*</p> <p>*</p> <p>DEPOSITION OF HONORABLE JULIE A. INTROCASO Deposition taken by agreement of counsel via Zoom on Monday, February 8, 2021, commencing at 1:35 P.M.</p> <p>Court Reporter: Tina L. Hayes, RPR, NH LCR #80 (RSA 310-A:161-181)</p>	<p style="text-align: right;">3</p> <p style="text-align: center;">I N D E X</p> <table border="0"> <tr> <td style="vertical-align: top; width: 80%;">1 WITNESS:</td><td style="width: 20%; vertical-align: bottom; text-align: right;">Page</td></tr> <tr> <td>3 Honorable Julie A. 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1 EXHIBITS FOR IDENTIFICATION: (Cont.)	5	1 did you go right to the 9th Circuit? Was that your
2 Number	Page	2 first posting, so to speak?
3 Exhibit 22 December 2019 Calendar	6	3 A. Yes.
4 Exhibit 23 January 2020 Calendar	6	4 Q. And what was it that you were initially
5 (The original exhibits were retained by		5 assigned to do at the 9th Circuit?
Mr. Waystack.)		6 A. I was assigned to the family division in
6		7 both Manchester and Nashua, both in the 9th Circuit.
7		8 Q. Okay.
8		9 A. And I was working between the two for a
9		10 period of time.
10		11 Q. Was there -- I know that other judges,
11		12 from time to time -- and this may be more a superior
12		13 court matter. But judges, from time to time, would
13		14 do a process when they began -- of shadowing another
14		15 judge. Did you have such a process?
15		16 A. I did.
16		17 Q. And whom did you shadow?
17		18 A. I know I spent a day with Judge Garner. I
18		19 know I spent a day with -- I apologize -- the judge
19		20 who was in Carroll County. He sat in Carroll County
20		21 up in Laconia and he's since retired.
21		22 Q. Is that Judge Patten maybe?
22		23 A. No. It was not Judge Patten. I know
23		
1	6	1 Judge Patten. I apologize.
2		2 Q. That's okay. You don't have to apologize.
3		3 A. Shadowed him.
4		4 Q. Judge Pam Albee, is that the one? No?
5		5 A. No, no. Not Pam Albee. It's a gentleman.
6		6 Q. It's a gentleman?
7		7 A. He sat in Laconia. I apologize, mostly to
8		8 him. I don't recall his name. But he's retired
9		9 within the last year or two.
10		10 Q. Yeah.
11		11 A. I believe I spent an afternoon or so
12		12 perhaps with attorney -- sorry -- Judge Spath. And
13		13 I think that's about it. I really didn't do much
14		14 shadowing.
15		15 Q. Okay.
16		16 A. I had a discussion with Judge Kelly at the
17		17 time, which was within those days that I was, you
18		18 know, shadowing, so to speak.
19		19 Q. Okay. So for a few days with a few
20		20 judges, but not any kind of formal shadowing
21		21 program?
22		22 A. No.
23		23 Q. Okay. So let's talk about you for a bit.

<p>1 So before you went on the bench, I knew you as --      2 were you the clerk of the Rockingham County Superior      3 Court?</p> <p>4 A. Deputy clerk of Rockingham County.</p> <p>5 Q. And for what period of time were you      6 employed as deputy clerk?</p> <p>7 A. February 14, 2000, till January 3, 2011.</p> <p>8 Q. During that tenure, was the Odyssey Case      9 Management System what the superior court used to do      10 case management?</p> <p>11 A. It was developed during the time I was in      12 the superior court.</p> <p>13 Q. Okay. And so is it fair to say, by the      14 time you left Rockingham as deputy clerk of courts,      15 you were somewhat familiar with the Odyssey System?</p> <p>16 A. I was very familiar with the system.</p> <p>17 Q. And, in fact, back in those days, you      18 would be the one setting the hearings for the      19 judges; correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 A. Generally. Generally.</p> <p>23 Q. Generally.</p>	<p>9</p> <p>1 A. I just want to make it clear I was in two      2 different entities during that seven-year period of      3 time.</p> <p>4 Q. No problem. So what was the -- the first      5 part of the seven years, was that when you were with      6 the firm?</p> <p>7 A. Yes.</p> <p>8 Q. And what was the firm's name?</p> <p>9 A. Christy, Tessier &amp; Innes in Manchester.</p> <p>10 Q. Oh, really? Yeah.</p> <p>11 And for those three years, just generally,      12 what type of work did you do there?</p> <p>13 A. It was almost all court-appointed work. I      14 did some court-appointed juvenile work. I did some      15 guardian ad litem work. While I was with them, I      16 handled their marital matters.</p> <p>17 Q. Yeah.</p> <p>18 A. I did do a civil jury trial while I was      19 there. But, you know, pretty much the -- the new      20 associate type of things, but I did have a number of      21 cases appointed to me by the court because I had      22 experience working in the court.</p> <p>23 Q. Can I kind of summarize that first</p>
<p>10</p> <p>1 A. I can't say that as an absolute. The      2 staff did some of the scheduling. But it was part      3 of my responsibility, working with the judges, to      4 schedule their calendar for matters that they had      5 discretion over scheduling, yes.</p> <p>6 Q. Okay. Who was the clerk of court when you      7 were the deputy there?</p> <p>8 A. Mr. Raymond Taylor.</p> <p>9 Q. Oh, Ray Taylor. Of course. So Raymond      10 has now retired too; right?</p> <p>11 A. He has indeed.</p> <p>12 Q. Yeah. Prior to the time you went on to      13 serve as deputy clerk in Rockingham, so I guess that      14 would be prior to February of 2000, is it so that      15 you were in private practice?</p> <p>16 A. I was in private practice for about seven      17 years.</p> <p>18 Q. Okay. So 1993 to 2000 approximately?</p> <p>19 A. If I could correct that?</p> <p>20 Q. Sure.</p> <p>21 A. Yes, I was in private practice, but I      22 worked for a small firm for the first three years.</p> <p>23 Q. Yeah.</p>	<p>12</p> <p>1 three-year part of your legal practice as saying it      2 was primarily a circuit court practice?</p> <p>3 A. I would say, at the time, it was probably      4 50-50 maybe, district and superior.</p> <p>5 Q. Okay. All right.</p> <p>6 A. Because, again, I did do marital cases.      7 And at that time, family and marital cases were      8 still being handled by the superior court.</p> <p>9 Q. Good point. So you did both?</p> <p>10 A. Right.</p> <p>11 Q. You were in a firm that had a trial      12 practice, and it was both in -- at that time, it was      13 called a district court. But we're calling it the      14 circuit court now. The trial practice of that firm      15 was both in the circuit court and in the superior      16 court; is that right?</p> <p>17 A. That's correct.</p> <p>18 Q. Did you do much or any transactional work?</p> <p>19 A. No.</p> <p>20 Q. Okay. So for that period of time with the      21 firm, you then left and went out on your own? Is      22 that the sense I get?</p> <p>23 A. Yes. Between 1996 and 2000, my husband</p>

	13		15
1 and I had a firm for about four years.		1 Q. Okay. Have I left anything out in terms	
2 Q. Your husband is a lawyer also?		2 of your professional career in the little	
3 A. Yes.		3 explanation we just went through?	
4 Q. I didn't know that.		4 A. Between June 3, 2011, and September of	
5 A. Well, he's retired.		5 2012, I served as disciplinary counsel at the	
6 Q. Oh. Okay.		6 Attorney Discipline Office.	
7 And where was your firm located?		7 Q. Okay. Great.	
8 A. Upstairs from the firm I worked for at		8 Okay. So I want to go back. I am going	
9 37 Salmon Street, Manchester.		9 to try and follow more or less of a timeline here.	
10 Q. Nice.		10 And I am going to begin by asking you questions	
11 And what type of work did you do for that		11 concerning the conflict of interest charge. As you	
12 three- or four-year period?		12 know, there are two charges that are in front of	
13 A. Again, pretty much the same type of stuff.		13 you. So, if you would, please turn to Exhibit 1.	
14 Both my husband and I had been public defenders. He		14 MR. WAYSTACK: Mr. Delaney, do you want to	
15 actually had a criminal defense contract at that		15 hand that to the judge, Exhibit 1?	
16 time; so that was a good share of his income. But		16 MR. DELANEY: Phil, are you okay if I	
17 he also took a number of cases at the request of the		17 bring both piles over to my desk?	
18 court for, again, juvenile matters, involuntary		18 MR. WAYSTACK: Sure. Absolutely.	
19 emergency admissions, things of that nature.		19 Absolutely.	
20 Q. IEAs, huh?		20 Q. (By Mr. Waystack) So take a second and	
21 A. Yes.		21 look at that document. It's, essentially, several	
22 Q. When you say -- and I am just curious. I		22 emails, Judge Introcaso.	
23 am not going to -- I am going to touch this lightly.		23 A. Oh, yes.	
	14		16
1 When you say your husband had a contract, was that		1 MR. DELANEY: Can I go off the record for	
2 what's called a conflicts contract with the Public		2 a one second?	
3 Defender?		3 MR. WAYSTACK: Sure.	
4 A. I have never heard of it called that. But		4 (Off the record.)	
5 we call it a criminal defense contract. It's a nice		5 Q. (By Mr. Waystack) So if you would turn to	
6 step out for public defenders to transition into		6 the third page of Exhibit -- actually, the second	
7 private practice.		7 page of Exhibit 1, Judge Introcaso?	
8 Q. Got it. Got it.		8 A. Yes.	
9 Okay. Now, the last piece you said		9 Q. Sort of like Japanese caricatures, you	
10 intrigues me. So before 1993, when you went to the		10 have got to begin from the last page.	
11 Christy, Tessier & Innes firm, you were a public		11 A. That's correct.	
12 defender; is that right?		12 Q. So my knowledge of Asian stuff doesn't go	
13 A. I was a public defender from October of		13 very deep, but I have learned that the oldest email	
14 1988 until 1993. I think it was in the fall		14 is the first one. So I think I am labeling this a	
15 sometime.		15 March 30, '18 email. Do you see what I am talking	
16 Q. And did you practice primarily out of the		16 about, your email dated March 30, '18, at 1:55 P.M.?	
17 Manchester office, Judge?		17 A. I do.	
18 A. Yes, exclusively out of the Manchester		18 Q. Okay. And take a second and review it.	
19 office.		19 Take a second and review it. We have a bunch of	
20 Q. Okay. And while a public defender, you		20 documents we're going to go through here. I	
21 did district -- or circuit court and superior court		21 certainly don't begrudge you time to review them so	
22 work and probably some appellate work, did you?		22 you can be responsive to the questions.	
23 A. Yes.		23 A. That's fine. I think I am familiar with	

<p>1 it.</p> <p>2 Q. Okay. So let me paraphrase if I can for a 3 sec. It sounds to me what was going on in late 4 March of '18 is that you were being evaluated under 5 the judicial performance evaluations that occur for 6 each judge every three years; is that correct?</p> <p>7 A. Yes. It had -- it had just started for me 8 in 2018.</p> <p>9 Q. Okay. So this is your first judicial 10 review -- performance review; is that right?</p> <p>11 A. No. There was also one in 2015.</p> <p>12 Q. Oh. Okay.</p> <p>13 A. I am just saying there's some preliminary 14 work that gets done before the actual evaluation 15 process where the surveys are made available to the 16 public.</p> <p>17 Q. Right. Okay.</p> <p>18 A. So this was sort of preliminary work.</p> <p>19 Q. Right. And I got that by reading this. 20 So I am going to ask you a few questions about it.</p> <p>21 So it sounds like what happened is Judge 22 King or somebody from Judge King's staff sent you a 23 list of the, quote, "random selected lawyers" who</p>	<p>17</p> <p>1 feedback from certain people who apparently you 2 worked with right away. And the one that jumped out 3 at me right away is interpreters; right?</p> <p>4 A. Right.</p> <p>5 Q. And various other people who you worked 6 more frequently with; is that right?</p> <p>7 A. That's right.</p> <p>8 Q. Let me just ask this before we get into 9 detail about this. I am curious about this myself. 10 So you were a trial lawyer for many years. You were 11 a public defender. You did family and district and 12 superior court work with the firm. You did some on 13 your own. Did you ever fill out a performance 14 evaluation yourself before you became a judge?</p> <p>15 A. I don't recall specifically having done 16 that.</p> <p>17 Q. Okay. But would you agree with me, 18 because you were a litigant, you probably got 19 questionnaires from time to time?</p> <p>20 MR. DELANEY: Objection to the form.</p> <p>21 You may answer the question.</p> <p>22 A. Again, I don't recall when this process 23 began, and I really have no recollection of filling</p>
<p>1 were receiving interviews directly from the judicial 2 branch; is that right?</p> <p>3 A. That's right. They are receiving surveys.</p> <p>4 Q. Right. And so -- and I am assuming the 5 reason it was sent to you and probably to other 6 judges is, if there was anybody on that list who you 7 were concerned about for whatever reason, you could 8 get back to the court about it. Is that so?</p> <p>9 A. That's what I have learned. Yes.</p> <p>10 Q. Okay. So your March 30, 2018, email to 11 Judge King, it sounds like, is in response to 12 receiving that packet of information from the judge 13 or the judge's office about who your surveys would 14 be sent to?</p> <p>15 A. That's right.</p> <p>16 Q. Okay. And as you say in the email, you 17 looked through -- looked it through. And apparently 18 there was a self-evaluation piece; is that right?</p> <p>19 A. There is a self-evaluation piece to the 20 overall evaluation, yes.</p> <p>21 Q. You mentioned that you will -- you will 22 get that out. And then in your first paragraph you 23 are asking specifically, it sounds like, for</p>	<p>18</p> <p>20</p> <p>1 out an evaluation for anyone who the court normally 2 evaluates.</p> <p>3 Q. (By Mr. Waystack) I have begun trying 4 cases for many years, and I get them pretty 5 regularly. To be honest, I don't fill out every 6 single one every single time.</p> <p>7 Okay. So you have no recollection of ever 8 filling one out as a lawyer; correct?</p> <p>9 A. No. Again, that would be, like, pre-2000. 10 I don't have any recollection of that.</p> <p>11 Q. How about when you were deputy clerk in 12 Rockingham? Did you -- I assume, as was the case 13 with you, part of the people who get the survey is 14 court staff. Did you ever get a survey, as part 15 of -- as deputy clerk of Rockingham County Superior 16 Court, for judges in that court?</p> <p>17 A. Yes.</p> <p>18 Q. Do you have a recollection of ever filling 19 one out as a deputy clerk of court for a judge who 20 practiced in that court?</p> <p>21 A. No.</p> <p>22 Q. Okay.</p> <p>23 A. Again, not -- not that I recall.</p>

	21		23
1     Q. So is it my sense, then, that -- back to 2 this Exhibit 1. In March of 2018, is this -- no. 3 This is your second experience with a performance 4 evaluation, because I think you said you had one in 5 2015; is that right?		1 they are unbiased and leave on what might be an 2 unbiased positive opinion." I was just trying to 3 collect both sides and get the most fair list I 4 could get.	
6     A. Second -- just to be clear -- judicial 7 performance evaluation. I have been evaluated in 8 other capacities, yes.		5     Q. Sure. Okay. So I am looking at the 6 page 2 of Exhibit 1. The paragraph 2 we're talking 7 about. You go on and say, "Kathleen Sternenberg is 8 one of the four people on my conflicts list."	
9     Q. Now, this is the one that -- in the Bar 10 News, we see that. It mentions which judges are 11 being reviewed for their judicial performance 12 review?		9                 Did you see that?	
13    A. Right.		10    A. Yes.	
14    Q. Okay. Then the second paragraph in your 15 March 30, '18, email to Judge King specifically 16 raised the issue of your relationship with Kathleen 17 Sternenberg, didn't it?		11    Q. Okay. Who were the other three, Judge?	
18    A. Yes.		12    A. My former husband.	
19    Q. Okay. And why is it that you discussed 20 that with Judge King back in March of '18, Judge 21 Introcaso?		13    Q. And his name is?	
22    A. Well, when I first got the list, I wasn't 23 aware of the fact that the chief justice's office		14    A. Anthony Introcaso.	
22		15    Q. Yeah.	
1    was willing to take feedback from judges as to who 2 might or might not be on that list.		16    A. Okay. And let me just say I never wrote 17 his name down on a conflicts list. He was one with 18 whom I knew obviously I have a conflict --	
3    Q. All right.		19    Q. Sure.	
4    A. I had learned from a number of other 5 judges that, when they see people on the list that 6 they think are inherently unbiased for particular 7 reasons, they call and have those people removed 8 from the list. This was the first year that I knew 9 that I could have some input as to who was on the 10 list. So I wrote to Judge King to tell him I would 11 like him to specifically solicit some information 12 that I would like some feedback on.		20    A. -- and would suspect others would as well. 21 The other three named individuals would be 22 Jane-Holly Weintraub.	
13    Q. Sure.		23    Q. Jane-Holly Weintraub. Last name is	
22		24	
1    spelled W-E-I-N-T-R-O-P [sic]?		1    spelled W-E-I-N-T-R-O-P [sic]?	
2    A. A-U-B, W-E-I-N-T-R-O-P [sic].		2    A. A-U-B, W-E-I-N-T-R-O-P [sic].	
3    Q. Weintraub. Okay.		3    Q. Weintraub. Okay.	
4    A. Jane-Holly, hyphenated, Weintraub.		4    A. Jane-Holly, hyphenated, Weintraub.	
5    Q. Yeah.		5    Q. Yeah.	
6    A. Stephen Cherry.		6    A. Stephen Cherry.	
7    Q. Yeah.		7    Q. Yeah.	
8    A. And Charles F. A. O'Leary.		8    A. And Charles F. A. O'Leary.	
9    Q. Okay. And I am assuming those were 10 friends of yours? You had some personal 11 relationship or some business with them?		9    Q. Okay. And I am assuming those were 10 friends of yours? You had some personal 11 relationship or some business with them?	
12   A. That's correct.		12   A. That's correct.	
13   Q. You didn't mention the other names, but 14 you clearly mentioned Kathleen Sternenberg; correct?		13   Q. You didn't mention the other names, but 14 you clearly mentioned Kathleen Sternenberg; correct?	
15   A. That's correct. I just mentioned the one 16 name on the list.		15   A. That's correct. I just mentioned the one 16 name on the list.	
17   Q. And I think I saw in one of your responses 18 somewhere that you make the point, which makes sense 19 to me, that most of the people on the conflicts list 20 you never see. The only one you happened to bump 21 into once in a while was Kathleen Sternenberg. Is 22 that about accurate?		17   Q. And I think I saw in one of your responses 18 somewhere that you make the point, which makes sense 19 to me, that most of the people on the conflicts list 20 you never see. The only one you happened to bump 21 into once in a while was Kathleen Sternenberg. Is 22 that about accurate?	
23		23    MR. DELANEY: Objection to the form.	

	25		27
1        You may answer the question.		1        A. Yes.	
2        A. I have seen her, since taking the bench,		2        Q. That puzzles me. What are the financial	
3 more than the others, yes.		3 complications you were referring to?	
4        Q. (By Mr. Waystack) As to the others, not		4        A. Just the -- you know, the fact that she's	
5 Kathleen Sternenberg, do you ever recall a time when		5 involved in the case. She's -- I mean, she's doing	
6 you were scheduled to hear a matter involving them		6 it to make money. She's employed. I -- I have	
7 and recused yourself?		7 tried to avoid the impression that I have appointed	
8        A. There have been other files presented to		8 her for anything other than her skills.	
9 me, I recall specifically, regarding Jane-Holly		9        Q. Right. So "financial complications" in	
10 Weintraub and I simply handed it to another judge		10 Exhibit 1, your email to Judge King, refers to, by	
11 and said, "I am not going to be able to hear this."		11 appointing her, you understand that there's going to	
12 There was no official proceeding with respect to		12 be revenue she's going to be getting from the	
13 conflict. Before they ever even knew the matter was		13 litigants?	
14 on my docket, I saw to it that it was given to		14        A. Correct.	
15 another judge or master.		15        Q. Okay. And you make the point here -- and	
16        Q. Can you date that circumstance for me at		16 I don't disagree with it -- sometimes our closest	
17 all, Judge?		17 friends can be our harshest critics. So it sounds	
18        A. I can't. I can't.		18 like you are raising to Judge King that Kathleen	
19        Q. Is it more than five years ago?		19 Sternenberg is on your conflicts list, one; two,	
20        A. I can't say.		20 that you have appointed her in some limited	
21        Q. Was Holly Weintraub -- I forget the middle		21 circumstances; and, three, it's up to him whether he	
22 name. Was she the only one other than Kathleen		22 wants to keep her on or not. But you are mindful	
23 Sternenberg on whom you have recused yourself		23 that just the fact he leaves her on doesn't mean you	
	26		28
1 concerning some litigated matter?		1 are going to get a good evaluation. Fair enough?	
2        A. Yes.		2        A. Oh, yeah, I mean, 60 or 70 people who are	
3        Q. Okay. I am going to go on back to		3 being surveyed.	
4 Exhibit 1 again. Again, in paragraph 2, it goes on		4        Q. Okay. Judge King did not respond	
5 a little further saying, "I have, however, after		5 immediately to you, did he?	
6 disclosure, appointed her as a GAL only when the		6        A. No.	
7 parties have specifically requested her services."		7        Q. And so let's go to the first page of	
8        Do you see that?		8 Exhibit 1. It looks to me like -- and I don't --	
9        A. Yes.		9 you tell me, because I am not very technologically	
10        Q. As you sit here today, in retrospect now,		10 savvy here. Did you forward the earlier email to	
11 aren't there a few other cases in which you have		11 him, or is it just -- the email that begins Friday,	
12 appointed Kathleen Sternenberg as a guardian where		12 April 27, 2018, is that a new email to him?	
13 the parties did not request her services?		13        A. If I could have just a minute?	
14        A. Yes.		14        Q. Sure. Take your time.	
15        Q. We'll get into that in a little bit more.		15        A. Oh, I -- I can't say for sure. I don't	
16 Let me keep going. Flip the page to the third page		16 see any indication that I necessarily forwarded it.	
17 of Exhibit 1, please, Judge.		17 But given the way computers work, I would say it	
18        A. Sure.		18 looks like I picked up my old email, added to it,	
19        Q. It's the first paragraph. It's a partial		19 and sent it directly to him again.	
20 paragraph. There was something you said. We're		20        Q. Got it. Okay.	
21 going to read it. It says, "I do not appoint her		21        A. I don't see anything -- well, see,	
22 otherwise because of the financial complications."		22 forward -- so perhaps I did. I may have picked up	
23        Did I read that correctly?		23 that earlier letter, 2018, and then forwarded it	

29

1 again, you know, from my sent file, forwarded it  
 2 again on April 27, to bring the issue up because I  
 3 hadn't heard from him.

4 Q. Got it. Flip the page. Go to page 2.

5 A. Okay.

6 Q. I am looking now at the second message  
 7 from you, Judge Introcaso, Friday, April 27. On the  
 8 second page, the second two paragraphs, that refers  
 9 to other lawyers who for whatever reason -- one  
 10 involved in another complaint and one who you  
 11 referred to the county attorney's office for  
 12 prosecution. Those three lawyers -- it looks like  
 13 you are calling those lawyers to Judge King's  
 14 attention vis-a-vis whether or not you wanted to  
 15 leave them on the list; is that right?

16 A. Again, yes. I thought that he should know  
 17 that those were people I felt at this point could  
 18 not be biased in terms of their evaluation.

19 Q. Right. Okay. And then so finally, on  
 20 April 27, the same day -- the second time you sent  
 21 the email to Judge King, he responded to you;  
 22 correct?

23 A. Yes.

30

1 Q. And he references -- again, this is on the  
 2 first page of Exhibit 1. He references the  
 3 situation. He mentions Paul Moore. Did you know  
 4 what he was talking about there?

5 MR. DELANEY: Objection to the form.

6 You may answer the question.

7 A. Generally, yes.

8 Q. (By Mr. Waystack) He goes on, explains  
 9 something about stuffing the ballot box and whatnot?

10 A. Yes. I had a general understanding of  
 11 Judge Moore's circumstances and the allegations,  
 12 et cetera.

13 Q. Sure. Sure. Okay.

14 Okay. So that was March and April of '18.

15 Let's turn to Exhibit 2 now, if we could.

16 And 2 now begins to get into the Partello matter.  
 17 Would you take a moment and look at Exhibit 2,  
 18 Judge?

19 A. Sure. (Witness peruses document.)

20 I am all set.

21 Q. Okay. All right. So, again, I am going  
 22 to try and save some time here. And if Attorney  
 23 Delaney doesn't like it, he will object, I am sure.

31

1 So Exhibit No. 2 -- let me paraphrase --  
 2 is a notice of decision, an interim order, and an  
 3 appointment of guardian ad litem form in the matter  
 4 of Campbell and Partello. Is that a fair statement?

5 A. Yes.

6 Q. Okay. So let's begin at the first page.  
 7 The first page is a notice of decision; correct?

8 A. Correct.

9 Q. On the top left-hand portion, underneath  
 10 the words "Notice of Decision," do you see the words  
 11 "File Copy"?

12 A. Yes. Yes.

13 Q. Now, as a former deputy clerk of  
 14 Rockingham Court, what significance does the words  
 15 "File Copy" on a court pleading have to you, Judge?

16 A. That's the copy that would be retained by  
 17 the court to show the activity in the case.

18 Q. Would that be part of the court's file, so  
 19 to speak?

20 A. Yes. That would be the copy that's  
 21 retained for the court so the court has a copy.

22 Q. Right.

23 A. And then, obviously, the other parties to

32

1 whom it was distributed appear at the bottom.

2 Q. So thank you for saying that.

3 So let's look at the bottom of page 1 of  
 4 Exhibit 2. So at the bottom there is a large "C"  
 5 and a colon, and then there are three names:  
 6 Jeffrey Manganaro, Robin Partello, and Kathleen  
 7 Sternenberg; correct?

8 A. That's right.

9 Q. And now, procedural, you are helpful to me  
 10 because you are not only a judge, you were a clerk.

11 So, as I understand it, each of these three people  
 12 who are copied on this, they would get a separate  
 13 copy of this notice of decision only -- where the  
 14 words "File Copy" appears on page 1 of Exhibit 2,  
 15 each of their names and addresses would appear; am I  
 16 correct?

17 A. Maybe you could break that down for me.

18 Q. Sure. Poor question.

19 Okay. So we just discussed that page 1 of  
 20 Exhibit 2 is the court's copy because of the words  
 21 "File Copy" in the top left?

22 A. Correct. Yes.

23 Q. There are three people, two lawyers and

	33		35
<p>1 a -- apparently, and a litigant whose names are at 2 the bottom of the file copy; correct?</p> <p>3 A. Correct.</p> <p>4 Q. My understanding is that each of these 5 litigants would have received a notice of this 6 decision, but it doesn't look exactly like page 1 of 7 Exhibit 2. Because where the words "File Copy" 8 appears on page 1 of Exhibit 2, the individual names 9 of these people would appear along with their office 10 address. Does that make sense? Is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Perfect. Okay.</p> <p>13 A. There would be four copies of this 14 document: file copy and three additional ones 15 addressed to the parties.</p> <p>16 Q. Sure.</p> <p>17 Okay. And so, if we go to the middle of 18 the case, it shows the caption of the case, the 19 docket number, and then it simply says "Enclosed 20 please find" relative to "Interim Order, Order on 21 the Appointment of Guardian ad Litem." That's sort 22 of the hint-hint for the call-in center of what this 23 notice of decision is all about. Is that what you</p>	34	<p>1 the case was opened. There are fields that are 2 optional where the clerk can choose to enter certain 3 information, if necessary.</p> <p>4 Q. Sure.</p> <p>5 A. So, for example, this notice of decision 6 has no discretionary information included in it.</p> <p>7 Q. Right.</p> <p>8 A. If, however, a judge were to make a side 9 note or there were multiple motions, for example, 10 let's say, a motion to continue, a clerk would have 11 the ability with the Odyssey System to type in, for 12 example, you know, "Amended order on appointment" or 13 "Order on appointment of guardian ad litem." They 14 could add some narrative language.</p> <p>15 Q. Sure.</p> <p>16 A. Like maybe the name of the guardian or 17 limit the guardian's authority. And if the judge 18 had written that, rather than asking a party or 19 counsel to read the judge's writing, many of the 20 times, from those documents, the clerks would type 21 it into the space that's provided on that notice of 22 decision.</p> <p>23 Q. And what I am really interested in is your</p>	
<p>1 understand?</p> <p>2 MR. DELANEY: Objection to form.</p> <p>3 You may answer the question.</p> <p>4 A. It's notification to counsel or the 5 parties as to what's enclosed.</p> <p>6 Q. (By Mr. Waystack) Okay.</p> <p>7 A. It's more of a -- that portion that you 8 read, "Interim Order, Order on Appointment" --</p> <p>9 Q. Yeah.</p> <p>10 A. -- in my opinion, served more as a sort of 11 a cover letter to notify them what the decisions are 12 that may be included or may be described in the 13 notice of decision.</p> <p>14 Q. Sure. Let me go back to your days as 15 Rockingham County Deputy Clerk. Did you issue 16 notices of decisions at Rockingham, Judge?</p> <p>17 A. All the time.</p> <p>18 Q. And, if you remember, what was your 19 personal -- as deputy clerk, what was your personal 20 experience in terms of what would be written on the 21 notices of decision?</p> <p>22 A. There are certain things that are fields 23 populated by data that have been in the system since</p>	36	<p>1 personal practice when you were deputy clerk. What 2 did you fill in in the notice of decision?</p> <p>3 A. Again, I would only have done the 4 narrative portion.</p> <p>5 Q. Yeah.</p> <p>6 A. And it runs the gamut between writing 7 absolutely nothing to perhaps typing up to a 8 paragraph of language, if that's what the judge put, 9 you know, at the bottom of a motion, for example.</p> <p>10 Q. Okay. So below the text area, it says 11 "DalPra, MM/Introcaso, J." Did I read that right?</p> <p>12 A. That's right.</p> <p>13 Q. And what does that signify?</p> <p>14 A. That signifies that a marital master made 15 a recommendation and the judicial officer approved 16 that. It doesn't mean approved, but it gives you 17 the name of who approved those orders by -- or 18 following the master's recommendation.</p> <p>19 Q. Sure.</p> <p>20 Is it true, Judge Introcaso, that, when 21 this notice of decision goes out with the orders, 22 here the interim order and your appointed 23 guardian -- as the judge involved, you don't get a</p>	

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<p>1 copy of that, do you?</p> <p>2 A. No.</p> <p>3 Q. You can access a file and look at it. But</p> <p>4 unlike the litigants in this case, a copy does not</p> <p>5 go to you?</p> <p>6 A. No.</p> <p>7 Q. Drop down to the bottom on the left -- to</p> <p>8 the left of where it says "Sherry Bisson, Clerk of</p> <p>9 Court," there's a date there. Do you see the date?</p> <p>10 A. Yes.</p> <p>11 Q. And what is it?</p> <p>12 A. October 25, 2018.</p> <p>13 Q. Again, as someone who has got wide</p> <p>14 experience, you can help out here. What's the</p> <p>15 purpose of that date on a notice of decision, judge?</p> <p>16 A. The date of the clerk's notice of decision</p> <p>17 of whatever judicial action was taken in the case</p> <p>18 serves as a starting point for a number of different</p> <p>19 timelines under the court rules. Whether that's a</p> <p>20 motion to reconsider or an appeal, all those actions</p> <p>21 postdecision are guided in terms of their time</p> <p>22 requirements by that date on the notice of decision.</p> <p>23 Q. So if, for instance -- and we'll just --</p>		<p>1 Q. Okay. All right. So let's turn to the</p> <p>2 second page. And I just -- this is the interim</p> <p>3 order. It's a two-page document. And it begins</p> <p>4 "The matter came before the court with regard to the</p> <p>5 petitioner's motion for ex parte orders."</p> <p>6 Did I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. And my understanding of this, it wasn't</p> <p>9 you who heard the ex parte orders. It was Marital</p> <p>10 Master Bruce DalPra; is that right?</p> <p>11 A. Correct. He conducted the hearing and was</p> <p>12 the fact finder.</p> <p>13 Q. So then, if we turn to the third page of</p> <p>14 Exhibit 2, this is the area where it's signed. And</p> <p>15 what appears is it was signed on October 24, 2018,</p> <p>16 by Master Bruce F. DalPra. Am I right?</p> <p>17 A. Correct.</p> <p>18 Q. And below that, it says "I hereby certify</p> <p>19 that I have read the recommendation and agree that,</p> <p>20 to the extent that the marital master has made</p> <p>21 factual findings, he has applied the correct</p> <p>22 standard to the facts determined by the marital</p> <p>23 master."</p>	
<p>1 we're going to move on after this.</p> <p>2 But -- so if the judge's order was made,</p> <p>3 let's say, October 19, but the notice of decision</p> <p>4 didn't get sent until the 25th, that would be the</p> <p>5 notice of decision. That would be the day by which</p> <p>6 the 10-day period for reconsiderations or the 30-day</p> <p>7 period for appeals begins, not the date that the</p> <p>8 judge signed the narrative; correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. All right. Last piece. On the</p> <p>11 first page underneath the date, there is a</p> <p>12 parentheses and a three-digit number within the</p> <p>13 parentheses, "579."</p> <p>14 A. Yes.</p> <p>15 Q. And tell me what that refers to, please.</p> <p>16 A. That's an Odyssey user code. The case</p> <p>17 management system assigns each authorized user a</p> <p>18 code whereby you can review who took what activity</p> <p>19 in the case management system.</p> <p>20 Q. As you sit here today, do you know who 579</p> <p>21 is?</p> <p>22 A. I -- I believe -- to the best of my</p> <p>23 knowledge, I believe it's Julianne Lodes.</p>	38		40

	41		43
1     Q. Okay. So a couple of questions about 2 this. Did you read that one-and-a-half or 3 one-and-a-third page interim order before you signed 4 it?		1 appointed Kathleen Sternenberg as guardian in this 2 case?	
5     A. Not as closely as I should have.		3     A. Yes.	
6     Q. But the question -- I didn't ask that 7 question. I asked if you read it all. Did you read 8 it at all?		4     Q. As we have previously discussed and as you 5 notified Judge King a few months before this, 6 Kathleen Sternenberg is on your conflicts list; 7 correct?	
9     A. Yes. I would not have signed it unless I 10 knew it was an interim order. And, you know, I 11 glance at it, and I get a sense of what it is, and I 12 cosign. Did I read every word? Candidly, not 13 likely.		8     A. Correct.	
14    Q. So look at the second page of Exhibit 2 15 at the bottom. It's an area where Master DalPra 16 says "Recommended." Now I want to look at 17 Recommendation 4. Can we do that?		9     Q. Did you feel as though you had any 10 obligation to notify anybody about the conflict 11 between you and Kathleen Sternenberg before you 12 signed this interim order?	
18    A. Sure.		13    A. Not this order, no.	
19    Q. Recommendation 4 says "Kathleen 20 Sternenberg is appointed guardian ad litem to 21 represent the interests of the minor child." Then 22 it says "See accompanying GAL order."		14    Q. Okay. Let's turn to the fourth page of 15 Exhibit 2. It says "Order on Appointment of 16 Guardian ad Litem."	
23    Did I read that accurately?		17    A. Yes.	
	42	18    Q. Now, this document, this is a court form. 19 Am I right?	
1     A. Yes.		20    A. Yes. This is a -- this is a generated 21 form.	
2     Q. So my question to you now is, when you 3 reviewed the interim order, although you may not 4 have read it as carefully as you might, did you see 5 that the judge was appointing Kathleen Sternenberg, 6 who was on your conflict list, to serve as guardian?		22    Q. Okay. So do you recall, when you signed 23 this order on appointment of GAL -- which we'll get	
7     A. No, not -- not that I have any 8 recollection of.			44
9     Q. You don't think you read that?		1     to in a minute; it's a few pages -- did you happen 2 to read that Kathleen Sternenberg was appointed as 3 guardian?	
10    A. I -- I have no recollection of seeing her 11 name right there, you know?		4     A. Again, I don't believe I did. I don't 5 believe that I read the first page where her name 6 was on the form.	
12    Q. So let me ask you to assume that you did 13 read it. And this is -- we're going to begin down 14 this trail.		7     Q. Okay. So let's assume for a moment, 8 Judge, that you did read that Kathleen Sternenberg 9 was there, was appointed as guardian. Did that 10 raise any obligation, in your mind, to notify 11 anybody that Attorney Sternenberg was on your 12 conflicts list?	
15    Is the fact that Kathleen Sternenberg is 16 on your conflicts or recusal list, is that 17 sufficient for you to either refuse to sign this or 18 to let people know that there's a relationship 19 between the two of you?		13    A. Normally, it would, yes.	
20    A. I apologize, Counsel, but I think there's 21 a couple of different issues in there. Could you 22 try to break it down for me?		14    Q. But it didn't in this case, apparently?	
23    Q. Okay. You signed an interim order that		15    A. No. Because, as I said, I don't believe I 16 saw her name. And, candidly, Master DalPra has been 17 aware of my conflict with Kay Sternenberg for 18 several years. So he will frequently direct his 19 things to other people when Kay's involved. So it 20 struck me as odd. But in all likelihood, I signed 21 the third -- or last page knowing it was a GAL 22 appointment. And if Master DalPra is recommending 23 that person, I generally don't question his ability	

<p>45 1 to do that.</p> <p>2 Q. As you sit here today, do you think</p> <p>3 Ms. Partello had some right to be notified that the</p> <p>4 person who a judge has appointed to be her guardian</p> <p>5 was on your conflicts list?</p> <p>6 A. Again, at this point in the case, no.</p> <p>7 Q. Okay. Turn to the next page, please.</p> <p>8 Look at paragraph 4, Judge, which is halfway down</p> <p>9 the page. It says here "The court sets the maximum</p> <p>10 fee in this case of \$3,500." Now, that's for the</p> <p>11 guardian's fee; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. I mean, it's been many years since I have</p> <p>14 done marital work, but I always thought it was 1,000</p> <p>15 or 1,500. \$3,500 struck me as being a relatively</p> <p>16 significant amount for the guardian's fee. I guess</p> <p>17 that's the cap, so to speak.</p> <p>18 A. Initially.</p> <p>19 MR. DELANEY: Objection to the form.</p> <p>20 You may answer the question.</p> <p>21 THE WITNESS: Okay.</p> <p>22 A. That would be the initial cap that would</p> <p>23 be set by Master DalPra, yes.</p>	<p>47 1 got that same language, hasn't it? Let me just read</p> <p>2 it once. "So ordered: I hereby certify that I have</p> <p>3 read the recommendations and agree that, to the</p> <p>4 extent the marital master/judicial referee/hearing</p> <p>5 officer has made factual findings, he/she has</p> <p>6 applied the correct legal standard to the facts</p> <p>7 determined by the marital master/judicial referee/</p> <p>8 hearing officer."</p> <p>9 Did I read that correctly?</p> <p>10 A. Yes.</p> <p>11 Q. So that part on this document in Exhibit 2</p> <p>12 is part of a form; correct?</p> <p>13 A. Yeah. It's -- it's in every form that</p> <p>14 either a master or referee can sign.</p> <p>15 Q. And as you sit here today, you didn't --</p> <p>16 you did not read the entire document? You didn't</p> <p>17 read the entire interim order? You didn't read the</p> <p>18 entire order appointing the GAL? Is that your</p> <p>19 testimony?</p> <p>20 A. I did not read them word for word, no.</p> <p>21 Q. Is it also your testimony that you were</p> <p>22 not aware that Kathleen Sternenberg, a person on</p> <p>23 your conflicts list, was being appointed GAL and</p>
<p>46 1 Q. (By Mr. Waystack) Did you think that that</p> <p>2 was pretty significant, \$3,500?</p> <p>3 A. Again, I honestly don't believe that I</p> <p>4 read through this entire form. I -- I -- there are</p> <p>5 a number of court forms that, as a matter of course,</p> <p>6 I do not read the details of things, like the money</p> <p>7 issues.</p> <p>8 Q. Whether you read it or not, I am asking</p> <p>9 you now. Do you think that \$3,500 in the initial</p> <p>10 appointment is a relatively high figure for a</p> <p>11 guardian to receive?</p> <p>12 A. It is unusually high, yes.</p> <p>13 Q. Thank you.</p> <p>14 Okay. Now, if you turn to the final</p> <p>15 page -- second-to-the-last page of this exhibit,</p> <p>16 this is the signature page; correct?</p> <p>17 A. Yes.</p> <p>18 Q. And as with the interim order,</p> <p>19 Master DalPra signs. And then you, as judge, also</p> <p>20 sign?</p> <p>21 A. That's right.</p> <p>22 Q. And the part that I read to you before</p> <p>23 that I thought was a form, apparently wrongly, it's</p>	<p>48 1 that she was receiving a high initial cap of \$3,500?</p> <p>2 A. I had no idea.</p> <p>3 Q. In retrospect, if you had read that, would</p> <p>4 you have taken any other steps?</p> <p>5 A. I likely would have given the file back to</p> <p>6 whomever presented it to me and said, "Why don't you</p> <p>7 have any other judge sign this?" as has been done in</p> <p>8 the case in other places, I notice, but -- and, like</p> <p>9 I said, it's unusual because Master DalPra</p> <p>10 oftentimes will come in for cosignatures. We live</p> <p>11 right next door in the courthouse. But when he</p> <p>12 knows it's Kay Sternenberg or Jane-Holly Weintraub,</p> <p>13 he will go, "Oh," and he will take it to someone</p> <p>14 else. He knows my conflicts.</p> <p>15 Q. All right. So this document we're talking</p> <p>16 about was in late October of 2018?</p> <p>17 A. Correct.</p> <p>18 Q. Would you please turn to Exhibit 3. Take</p> <p>19 a moment and just look that over, if you would.</p> <p>20 MR. WAYSTACK: Michael, did you want to</p> <p>21 make an objection about this? We discussed</p> <p>22 this beforehand.</p> <p>23 MR. DELANEY: Thank you, Attorney</p>

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1 Waystack. My understanding is that Exhibit 3  
 2 relates to a different case than the Partello  
 3 case involving an order on the appointment of  
 4 guardian ad litem related to Guardian ad Litem  
 5 Kay Sternenberg.

6 I also understand that Judge King has  
 7 referred this matter to the Judicial Conduct  
 8 Committee, and I am not aware of the case yet  
 9 having been docketed as a complaint or  
 10 scheduled for any form of inquiry or  
 11 investigation.

12 Judge Introcaso has obligations of  
 13 confidentiality related to that referral by  
 14 Judge King. I want to ensure that she does not  
 15 take any steps today that could be deemed  
 16 inconsistent with her obligations under the  
 17 judicial conduct rules.

18 I am not entirely sure if committee  
 19 counsel of the JCC has a right to inquire about  
 20 this before a majority of the JCC takes a vote  
 21 to determine whether it should be docketed as a  
 22 complaint.

23 With that being said, I will register an

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1 Q. Let me ask you. This -- if you look at  
 2 the -- let's go to the end of this. The third  
 3 page -- it's a four-page exhibit, Exhibit 3.

4 Just for timeline here, so it looks like  
 5 you signed this on November 29, 2018.

6 A. That's right.

7 Q. Do you see that? Okay.

8 So let me ask you this, now that I have  
 9 given you the time frame: Do you have any  
 10 recollection about this case at all, Loudermilk and  
 11 Laura Montgomery?

12 A. I do.

13 Q. You do? Okay.

14 And this was a case that involved -- it  
 15 needed a guardian ad litem because there was a  
 16 parenting issue here; correct?

17 A. Correct.

18 Q. And this was not a case where Master  
 19 DalPra had recommended this. This is a case, it  
 20 looks like, you signed on your own.

21 A. Yes.

22 Q. Fair enough? Okay.

23 And in this case, again, page 1 of

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1 objection to the line of inquiry. I will allow  
 2 Judge Introcaso to answer questions regarding  
 3 prior cases, subject to that objection. And I  
 4 would ask for a continuing objection, for the  
 5 purposes of this deposition, for all inquiries  
 6 related to prior cases other than the Partello  
 7 case.

8 MR. WAYSTACK: Okay. Let me just respond  
 9 briefly. There will be about six or seven  
 10 other of these appointments I will be talking  
 11 about. I agree, Attorney Delaney, you can have  
 12 a continuing objection for the reasons stated.  
 13 I am not going to eat up a lot of the time with  
 14 a response to your objection other than to say  
 15 this matter has been brought before the  
 16 Judicial Conduct Committee. I don't have any  
 17 view of there being new charges, but it relates  
 18 to some of the statements in this case, in the  
 19 Partello case.

20 Q. (By Mr. Waystack) So having said all that,  
 21 did you have a chance to look at Exhibit 3, Judge  
 22 Introcaso?

23 A. Yes.

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1 Exhibit 3, paragraph 2, who's being appointed?

2 A. Kathleen Sternenberg.

3 Q. Okay. And do you remember at the time if  
 4 Mr. Loudermilk and Ms. Montgomery were represented  
 5 by counsel?

6 A. They were both represented.

7 Q. Okay. And was this as a result of an  
 8 actual hearing in a courtroom, Judge?

9 A. There was a hearing in a courtroom, that I  
 10 recall. Whether this order was delivered to the  
 11 parties in the courtroom or whether it was mailed  
 12 out subsequently to that hearing, I couldn't tell  
 13 you. But it was subsequent to a hearing.

14 Q. Okay. And I am going to go back to what  
 15 you said in your email to Judge King. To your  
 16 knowledge, did the parties -- or, rather, did  
 17 counsel for the parties tell you they wanted  
 18 Kathleen Sternenberg appointed as GAL?

19 A. They did. They had come to an agreement  
 20 that she would be the guardian in the case.

21 Q. Do you have any different recollection of  
 22 that, Judge Introcaso?

23 MR. DELANEY: Objection to the form.

	53	
1        You may answer.		1        Q. (By Mr. Waystack) I am going to give you a
2        MR. WAYSTACK: I will withdraw the		2 moment to read that, Judge, Exhibit 19.
3        question. I will withdraw the question.		3        A. Okay. Thank you. I was going to say this
4        Q. (By Mr. Waystack) Are you reasonably sure		4 actually says "Exhibit 19."
5 what you just said to me, Judge Introcaso, that is,		5        (Witness peruses document.) Okay.
6 that it was the parties who decided that they wanted		6        Q. Okay. So this appears to be an email sent
7 Kathleen Sternenberg?		7 from you on the same date you signed the orders
8        A. I am reasonably sure that these two		8 appointing Kathleen Sternenberg as the guardian ad
9 attorneys had spoken with one another and agreed to		9 item in the Loudermilk case.
10 have her appointed to the case. And we had a		10      A. Yes.
11 discussion -- whether or not it was on the record, I		11      Q. And it's sent from you to Attorney Timothy
12 recall it very clearly -- with Attorney Piela and		12 Coughlin and Attorney Andrew Piela?
13 Attorney Coughlin and us talking about, "Oh, you		13      A. Right.
14 have got Attorney Sternenberg here today. Well,		14      Q. And it's copied to Kathleen Sternenberg.
15 then we have some things to talk about."		15 Did I say that right?
16        And when we -- I disclosed my conflict,		16      A. Yes.
17 they were both, "Fine. Fine. No. We're okay with		17      Q. In the first paragraph, it seems to
18 that."		18 suggest that it was you, Judge, who called several
19        I don't have an immediate recollection of		19 guardians ad litem. And you make the comment "most
20 any language. I am just trying to reflect the tenor		20 of whom don't pick up the phone." And then you
21 of the meeting with counsel. That was in the		21 spoke with Attorney Sternenberg, and you talked
22 courtroom.		22 briefly about the facts in the case. That's what
23        Q. Okay. From time to time, it appears to		23 your email says, isn't it?
	54	
1 me, in the course of my investigation, that you		56
2 would -- as a judge, you would have direct email		1        A. Yes. And I recall this. I now recall
3 contact with the attorneys in the case; is that		2 this. The attorneys could not agree on a guardian.
4 right?		3 We had a hearing. And, you know, I said, "If you
5        A. Only if it's cc'd to the other side. But,		4 guys can't agree on someone, then the court will
6 yes, I allowed contact with counsel via email.		5 appoint somebody."
7        Q. So in certain cases, counsel could contact		6        Q. Right. And the someone you appointed was
8 you directly by email rather than go through the		7 Kathleen Sternenberg?
9 court system?		8        A. Was Kay, right.
10      A. Yes, under certain circumstances.		9        Q. Again, you make some reference to the fact
11      Q. Okay. Do you have a recollection of any		10 that you worked with her for a while in Manchester
12 such email contact in this case?		11 before going to court, but -- before working for the
13      A. I remember the courtroom hearing. I don't		12 court. But then you go back and you say -- you sort
14 specifically recall if I communicated with counsel		13 of explain it in the second-to-the-last paragraph.
15 prior to or subsequent to that hearing via email.		14 "I don't believe I would have any problem looking at
16 But both Attorney Coughlin and Attorney Piela would		15 her recommendation."
17 have been permitted to do that if they needed to.		16        And what I am concerned about is the last
18        MR. WAYSTACK: Okay. Michael, would you		17 paragraph that says, "If you have any concerns about
19 please hand the witness Exhibit 19 now.		18 the appointment, let me know in the next 27 minutes,
20        THE WITNESS: Excuse me. I am just going		19 if possible. Otherwise, I will head out, certain
21 to throw away a piece of waste here.		20 you will hear from her and move forward in the near
22        MR. WAYSTACK: Go ahead.		21 future." In other words, "Get back to me in
23        THE WITNESS: Thanks.		22 27 minutes or Kathleen Sternenberg is appointed in

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1 A. No. I don't agree with that.		1 Q. Okay. To be clear, this was not an email	
2 Q. Why not?		2 to you. This is an email you sent Judge Introcaso,	
3 A. At the end, I also say, "PS: Absent an		3 isn't it?	
4 objection, a hard copy of the order will go out in		4 A. Yes, because the hearing was left on a	
5 tomorrow's mail along with a notice of decision."		5 note of, "We can't agree on someone. Judge, we will	
6 I was trying to -- I believe the		6 give you the authority to pick who you think would	
7 "27 minutes" has to do with the fact it was 3:34 and		7 be appropriate in this case." And under the time	
8 they wouldn't be able to get back to me that day and		8 constraints, the appropriate person was a person who	
9 that I would hear from her if she was willing to		9 I could get in touch with. There aren't that many	
10 take it. I would hear from them. I am just trying		10 guardians available. And she was -- she was	
11 to put together, "Basically, can we all get on the		11 available. I thought she would do good in the case,	
12 page who the guardian is going to be?" And, you		12 do a nice job. I told them that I had something of	
13 know, I -- frankly, "Let me know in the next		13 a conflict and, if they wanted to let me know, they	
14 27 minutes," unfortunately, was intended lightly.		14 would object.	
15 It was not intended as pressure.		15 Q. Do you think it's your job as a judge to	
16 Q. Well, let's just look at the facts. So we		16 call guardians for appointment in cases?	
17 just talked about Exhibit 3. And Exhibit 3 is the		17 A. Yes, I do.	
18 actual appointment that you signed on the 29th.		18 Q. Did you do that regularly?	
19 That's the day you sent the email.		19 A. Yes. I was also regularly called as a	
20 A. Correct.		20 guardian by judges to do specific cases.	
21 Q. So it looks to me, by the end of the		21 Q. And so your recollection is that the	
22 business day, that is, November 29, '18, you went		22 attorneys in this case asked you to find the	
23 ahead and appointed Kathleen Sternenberg. And you		23 guardian? That's your testimony under oath?	
	58		60
1 gave -- and I realize it's 3:34 you sent the email.		1 A. In essence, it's a default position. If	
2 I know that the court closes at 4:00. My read is,		2 the two parties can't come up with lists that they	
3 "You have got 27 minutes to object. And if you		3 can agree on one side or the other -- or one person	
4 don't, I am going to" -- "I am going to appoint		4 or the other, by default, then, we kind of let the	
5 her."		5 judge find somebody or have the judge try to find	
6 Now, maybe they sent a written objection		6 someone.	
7 later, but isn't that the way this happened, Judge		7 It's my practice to normally let people	
8 Introcaso?		8 submit three names, each of them submit three names.	
9 MR. DELANEY: Objection to the form. The		9 If they have got someone in common, great. If they	
10 question has been asked and answered.		10 don't and we're finishing up a structuring	
11 You may answer the question.		11 conference, they sort of leave it in my hands. And,	
12 A. No. I don't -- I don't think that that's		12 frankly, 75 percent of that time I leave it to the	
13 how it went. I mean, we had had an earlier hearing		13 staff, who often appoint guardians to do it.	
14 where we talked about guardians. They had given me		14 Q. Regardless of the process, Exhibit 19	
15 the authority to select a guardian. I don't recall		15 seems to suggest that what you told Judge King, that	
16 if I specifically mentioned Kay or not. But I think		16 you only appoint the guardian when both parties	
17 this email, to me, reads like I am trying to		17 agree, that is not accurate in terms of what	
18 document what happened in terms of the guardian.		18 Exhibit 19 says, is it?	
19 Like I said, I just -- I distinctly		19 A. No. Not technically, no.	
20 remember Attorney Coughlin, Attorney Piela, and I		20 Q. Okay. Let's go to Exhibit 4, please.	
21 talking about the issue of the guardian and my		21 Now, what is Exhibit 4. Is it another	
22 initial recollection being they were comfortable		22 order on the appointment of a guardian ad litem?	
23 with me picking a guardian, regardless.		23 A. It is.	

	61		63
1     Q. Okay. And in this case, it's the case 2 of -- I will not be able to pronounce this 3 correctly -- Kseniya Ausiaikova. Is that what this 4 is?		1 different number, "948." Do you see that? 2     A. Yes. 3     Q. Do you know who 948 is? 4     A. I don't, but I could guess. 5     Q. Okay. In the top left-hand portion after 6 "Notice of Decision" -- is this a copy that went to 7 the parties or is this the court's file copy?	
5     A. It sounds like it. The defendant's name 6 is Brian Meckel.		8     A. With respect to the notice of decision, 9 this looks like a copy of the court's file copy.	
7     Q. Probably easier using that name, huh? 8     So if you turn to the third page of 9 Exhibit 4, we're following a dateline here now. We 10 just dealt with Loudermilk, which was November. 11 This is December of '18; correct?		10    Q. File copy? Okay. 11           And the narrative in it says "Motion for 12 instruction; A and B are granted. Respondent shall 13 fully cooperate with the GAL. Failure to do so may 14 result in sanctions and may be taken into 15 consideration regarding the issuance of the final 16 parenting plan."	
12    A. Correct.		17    Did you read that accurately?	
13    Q. And this -- as with the first one, this 14 was a recommendation of Bruce DalPra that you 15 cosigned?		18    A. Yes.	
16    A. That's right.		19    Q. And that was signed by Marital Master 20 Bruce DalPra and also signed by you, Judge 21 Introcaso; correct?	
17    Q. Was there any discussion at all with you 18 and Judge and -- Master DalPra or you and the 19 parties or the counsel that Kathleen Sternenberg was 20 on your conflicts list?		22    A. That's right.	
21    A. Bruce has known that for seven years.		23    Q. Okay. Did you read -- did you read and --	
22    Q. What about the parties? What about the 23 lawyers?			
	62		64
1     A. Oh, the parties? I apologize.		1     this decision carefully and -- decision?	
2     Q. No. I asked including Bruce.		2           The second page of Exhibit 5 appears to be	
3     A. I don't know the parties, and I don't know 4 how they would know me or Attorney Sternenberg.		3     the front page of a motion for instruction by	
5     Q. Okay. So is it fair to say that you did 6 not disclose that Kathleen Sternenberg was on your 7 conflicts list to either the parties or their 8 attorneys?		4     Attorney Sternenberg. The third page of Exhibit 5	
9     A. I didn't.		5     appears to be Kathleen Sternenberg's signature page.	
10    Q. Let's turn to Exhibit 5. We're 11 transitioning now from late '18. The last order was 12 December of '18. Hold on one second. I will wait. 13 I will wait.		6     And then on the signature page, it looks like 7 handwriting. And I am going to assume that's Master 8 DalPra's so-called margin order. Is that what you 9 see, Judge Introcaso?	
14       To save a little time, is this a notice of 15 decision and an order on a motion for instruction in 16 the Partello case?		10    A. I see that, yes.	
17    A. Yes.		11    Q. And below that is a stamp. It appears as 12 though you signed this on February 15, 2018. Am I 13 right?	
18    Q. Okay. The first page of Exhibit 5, the 19 notice of decision, what is the date of the notice 20 of decision?		14    A. That's right.	
21    A. February 21, 2019.		15    Q. So did you read this carefully before you 16 countersigned it?	
22    Q. And it looks like the three-digit 23 number -- it isn't 579 like the first one. It's a		17    A. This one I think I read fairly carefully, 18 yes. I mean, I don't have a specific recollection 19 of reading it. But because Master DalPra had 20 included some sort of narrative language beyond 21 granted or denied, I suppose it piqued my interest 22 more as to the details.	
		23    Q. So if you turn to the second page of	

	<p>65</p> <p>1 Exhibit 5, at the bottom of the page, this is a 2 motion filed by Kathleen Sternenberg and -- where it 3 begins with "Wherefore," in other words, her prayers 4 in the motion. Do you see those?</p> <p>5 A. Yeah.</p> <p>6 Q. So she's asking the court to order 7 Partello to cooperate for a home visit within seven 8 days of the court's order. She's asking Partello to 9 pay a second retainer of \$350 within seven days and 10 grant such other and further relief; correct?</p> <p>11 A. Correct.</p> <p>12 Q. I don't want to waste time bringing 13 proceeding -- things I don't need in, but I will ask 14 you this: Are you aware that Robin Partello, who 15 was the respondent in this matter, objected to this 16 motion?</p> <p>17 A. I don't know that. Or I don't know -- 18 sitting here, I don't know that. I would have to 19 look at the file. But --</p> <p>20 Q. I will deal with that issue later.</p> <p>21 Okay. So let me ask you this: So this is 22 Kathleen Sternenberg. It's her motion.</p> <p>23 A. Right.</p>
	<p>66</p> <p>1 Q. She's filing a motion as a guardian ad 2 litem within a couple of months after she was 3 appointed in the case. And, A, she's asking to have 4 a visit within seven days and already asking for 5 more money. Is that clear to you that that's what's 6 being asked here?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And my sense is -- and I don't know 9 this. But my sense is that Marital Master Bruce 10 DalPra actually had a courtroom hearing on this 11 issue. Do you know that?</p> <p>12 A. I have no idea.</p> <p>13 Q. Okay. But, in any event, you were no part 14 of the hearing if he held one; correct?</p> <p>15 A. Correct.</p> <p>16 Q. And I think I should have probably spend a 17 moment on this. There is a reason that you, as a 18 judge who has been appointed by the Governor and 19 approved by the Executive Council, signs marital 20 masters' orders. Am I right?</p> <p>21 A. Yes.</p> <p>22 Q. And would you, in a -- in a couple of 23 sentences, explain why that is necessary, Judge.</p> <p>67</p> <p>1 A. In essence, marital masters are not 2 constitutional officers. And the fundamental 3 difference is the authority that's given to judges, 4 as opposed to masters, primarily to incarcerate 5 people. Within the family division, that authority 6 doesn't exist for marital masters.</p> <p>7 So they can propose sanctions, but they 8 don't actually have the ability to incarcerate 9 someone. So if they request, say, a show cause 10 hearing, they make the determination that something 11 hasn't been complied with or paid, and then it would 12 be scheduled in front of a judge to make a 13 determination as to what's an appropriate sanction.</p> <p>14 Q. You said it in a short way. Marital 15 masters don't have the power to punish for contempt 16 vis-a-vis incarceration, do they?</p> <p>17 A. Yes -- thank you -- more artfully stated.</p> <p>18 Q. So here's my concern now: The order 19 itself that Judge -- excuse me -- that Master DalPra 20 suggested, I mean, reading it, seems pretty grim. 21 It seems, "You better cooperate or it's going to 22 result in sanctions, including the issuance of the 23 final parenting plan." The final parenting plan is</p> <p>68</p> <p>1 where the court decides what a parent's custodial 2 rights to their children are, isn't it?</p> <p>3 MR. DELANEY: Objection to the form.</p> <p>4 You may answer the question.</p> <p>5 A. Yes. A parenting plan spells out parental 6 rights and responsibilities.</p> <p>7 Q. (By Mr. Waystack) Let me ask you this 8 question: Do you think, as a parent, when a parent 9 is told, "You better cooperate with this guardian or 10 it's going to affect your ability to parent your 11 child," that that's a kind of a strong reaction in a 12 case that's just beginning?</p> <p>13 MR. DELANEY: Objection to the form.</p> <p>14 You may answer the question.</p> <p>15 A. It's fairly routine language.</p> <p>16 Q. (By Mr. Waystack) Fairly routine language? 17 That someone may receive a sanction, including 18 issuance of the parenting plan, that's fairly 19 routine?</p> <p>20 A. A person's apparent failure to comply with 21 previous court orders impacts the court's decision- 22 making in the parenting plan. Because if you don't 23 trust someone's ability to comply with the orders,</p>

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1 you are not going to have a lot of trust in their  
 2 ability to comply with the parenting plan.  
 3 So it inherently has an impact as to  
 4 whether or not that person is going to continue to  
 5 be in compliance with the court or to continue to  
 6 basically fight court orders and that it's not  
 7 unusual to let parents know that at the outset.  
 8 "Those are the orders. Follow them or it could have  
 9 consequences with respect to your rights to parent  
 10 your child." I don't find it unusual language.

11 Q. Would you agree with me that warning  
 12 someone of sanctions, including their right to  
 13 parent their children, is a substantive order?

14 A. No.

15 Q. You don't think so?

16 A. I don't think it resolves any conflict in  
 17 the case.

18 Q. Well, that's not my question. My question  
 19 is is it a substantive order? That's my question.

20 A. Not as I define substantive, it's not.  
 21 It's more of a directive from the court and not a  
 22 substantive decision.

23 Q. What seems clear, when we look at

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1 Exhibit 5, is, again, relatively early on in the  
 2 case Attorney Sternenberg had just been appointed at  
 3 the very end of October. A couple of months later,  
 4 there seems to be some disconnect between the  
 5 respondent and her concerning a house visit and  
 6 she's also looking for more fees.

7 So here's my question: Did it dawn on you  
 8 at that point, before you signed this order on  
 9 February 15, 2019, that you needed to disclose to  
 10 Robin Partello that Kathleen Sternenberg, the very  
 11 person who filed the motion, the GAL, was on your  
 12 conflicts list?

13 A. I did not.

14 Q. Did you think about it?

15 A. I don't recall if I thought about it or  
 16 not, but I comfortably signed the order.

17 Q. Should you have thought about it, Judge  
 18 Introcaso, and should you have notified Ms. Partello  
 19 of the conflict before signing the order?

20 A. I probably should have been more  
 21 thoughtful about a number of these things.

22 Q. I am asking you specifically about  
 23 Exhibit 5, Judge.

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1 A. Should I have done that in this situation?  
 2 I will tell you, honestly, I am not clear if I had a  
 3 requirement to do that. So using the term "should,"  
 4 it would have been better had I done that in some  
 5 fashion. But in the posture of the case and the  
 6 nature of the order, like I said, I was comfortable  
 7 essentially approving an order for Master DalPra  
 8 telling her she needed to comply. I didn't -- the  
 9 issue of my conflict with Attorney Sternenberg was  
 10 really not part of the calculus at that point.

11 Q. On the second page of Exhibit 5, if you  
 12 turn to it, what is clear is that this is a motion  
 13 filed not by the attorney for the petitioner or the  
 14 respondent's attorney. This is a specific motion  
 15 filed by the GAL. Am I right?

16 A. Yes.

17 Q. When you read that motion, I presume you  
 18 read the order before you signed off on it? You  
 19 read the three pages here -- excuse me -- the two  
 20 pages?

21 A. Yes.

22 Q. When you saw that it was Kathleen  
 23 Sternenberg, a member -- a person on your conflicts

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1 list that filed a motion, did that raise concerns  
 2 for you?

3 A. It -- again, it probably raised a concern.  
 4 I mean, I see her name and her signature. I know  
 5 who she is. But, again, the nature of the order  
 6 that I was approving resolved any uncertainty I had  
 7 about the propriety of my signing it.

8 Q. Okay.

9 MR. DELANEY: So, Phil, we have been going  
 10 almost an hour and a half. When you hit a good  
 11 breaking point, I would like to take a short  
 12 break.

13 MR. WAYSTACK: Sure. Let's do that right  
 14 now.

15 (A break was taken.)

16 Q. (By Mr. Waystack) Let's turn to Exhibit 6,  
 17 if we can. Turn to Exhibit 6.

18 So let me represent to you, to save some  
 19 time, this is a notice of decision and a two-page  
 20 motion by the guardian to exceed the fee cap with a  
 21 so-called margin order on the third page signed by  
 22 you, Judge Introcaso. Does that appear to be  
 23 accurate, what I just said?

<p>73</p> <p>1 A. Yes.</p> <p>2 Q. Okay. So we were recently talking about 3 the motion for instruction order. And, as you 4 recall, that was signed by you on February 15, 2018. 5 So here we are less than a month later, and the 6 guardian is now filing a motion to exceed the fee 7 cap. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Now, if I turn to the third page of 10 Exhibit 6, there's no signature by Marital Master 11 DalPra here, is there?</p> <p>12 A. No. This was my order.</p> <p>13 Q. Okay. So this is your order on your own, 14 no recommendation by the marital master?</p> <p>15 A. No.</p> <p>16 Q. My understanding is there was no hearing 17 on this motion. Am I right?</p> <p>18 A. Correct.</p> <p>19 Q. So you didn't hear the parties argue. You 20 just made a decision on March 12 on this order on 21 your own?</p> <p>22 A. That's right. It would have been in the 23 signing pile, if you will.</p>	<p>75</p> <p>1 Q. And you signed it?</p> <p>2 A. Yes.</p> <p>3 Q. And can we agree, Judge Introcaso, that 4 the "objection No. 36" meaning is Index 36 of the 5 Odyssey Case Summary [sic]?</p> <p>6 A. It should be.</p> <p>7 Q. Yeah, it should be, and I think it is.</p> <p>8 A. Okay.</p> <p>9 Q. Now, having said that, turn to the second 10 page of Exhibit 6, if you would.</p> <p>11 A. Okay.</p> <p>12 Q. At the bottom right of that, did somebody 13 write in some letters -- some numbers there?</p> <p>14 A. Right.</p> <p>15 Q. And what number is that?</p> <p>16 A. You are looking at "34"?</p> <p>17 Q. Correct.</p> <p>18 A. Okay.</p> <p>19 Q. So I will double-check, but I am going to 20 assume, then, that the motion is Index 34. The 21 objection was Index 36. Does that sound right to 22 you?</p> <p>23 A. Yes.</p>
<p>74</p> <p>1 Q. On the third page of Exhibit 6, it shows 2 that the date Attorney Sternenberg signed this was 3 the last day of February, February 28, 2019. Do you 4 see that?</p> <p>5 A. Yes.</p> <p>6 Q. My sense is, if I remember from the court 7 index, that it wasn't indexed until March 1, 2019. 8 So here's a question: Do you know if Robin Partello 9 objected to that motion?</p> <p>10 MR. DELANEY: So, Phil, I am just going to 11 object to the form based on the representation 12 about the index, no objection to the question.</p> <p>13 MR. WAYSTACK: Okay.</p> <p>14 MR. DELANEY: I am not saying you are 15 wrong. I just -- it's not in the record.</p> <p>16 MR. WAYSTACK: No problem.</p> <p>17 A. Based on the language in my order, I 18 believe there was an objection at No. 36.</p> <p>19 Q. (By Mr. Waystack) Okay. And the language 20 in your margin order on page 3 of Exhibit 6 says 21 "over the respondent's objection at No. 36"; 22 correct?</p> <p>23 A. Right.</p>	<p>76</p> <p>1 Q. Okay. So, now, this is the second motion 2 by the guardian within a very short time and really 3 early in the case where the guardian is taking a 4 motion here financially to which the respondent 5 objected. So my question to you is did you think, 6 under that circumstance, that it was -- that you 7 should have notified the respondent, Robin Partello, 8 that Kathleen Sternenberg was on your conflicts 9 list?</p> <p>10 MR. DELANEY: Objection to the form. 11 You may answer the question.</p> <p>12 A. Yes.</p> <p>13 Q. (By Mr. Waystack) But you didn't do that, 14 did you?</p> <p>15 A. I did not do that, as I signed the order.</p> <p>16 Q. Do you recall why you didn't do that?</p> <p>17 A. Prior to signing the order, I should say.</p> <p>18 Q. Do you recall why you didn't do that?</p> <p>19 A. Do I recall why? In reading the motion, 20 at the time I granted it -- again, I looked at the 21 prayers for relief. I think, first, I noticed that 22 it was a file that was pretty early on in terms of 23 the path of litigation and already there were a</p>

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1 considerable number of pleadings. So I will say the  
2 first thing I noticed was this getting thicker, as I  
3 might say.

4 And then I looked at this, and it was a  
5 motion to exceed the fee cap; again, not an unusual  
6 motion. It asked that the guardian be allowed to  
7 exceed the fee cap. And I can't read the second  
8 part of it, but I believe she was asking for money  
9 from both parties. Let me double-check. I  
10 apologize.

11 She used the initial retainer, informed  
12 both parties of her intent to file it. I -- to me,  
13 I read it and I thought, again, it was the  
14 guardian's sort of objective request to both parties  
15 to replenish the retainer.

16 Q. Well, let me take issue with the word  
17 "objective." If the respondent's objecting to it,  
18 it doesn't sound like she thinks it's very  
19 objective, does it?

20 A. No. No, obviously. She's objecting to  
21 paying more money. I was focused on what was the  
22 relief that Attorney Sternenberg was seeking and was  
23 it unfair to either one of the parties to grant the

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1 notice of decision?

2 A. Yes.

3 MR. WAYSTACK: Okay. Let me take a second  
4 before we go any further. Michael, just so you  
5 know this, this has got your Bates stamp on the  
6 bottom right, "JAI." And these documents that  
7 I am using come out of Volume 1 of the color  
8 file that the attorney general provided both  
9 you and I and it looks like you subsequently  
10 Bates-stamped the bottom right.

11 Q. (By Mr. Waystack) Judge, back to the  
12 question. That's just information for your lawyer.

13 So what I see is handwriting that says  
14 "1/9/2020." Do you see that?

15 A. Yes.

16 Q. And then it says, underneath that,  
17 "Originals have been submitted @" -- at sign --  
18 "JCC."

19 Did I read that right?

20 A. Yes.

21 Q. And then it looks like there are initials  
22 "JDL" at the bottom of that, what I just read;  
23 correct?

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1 motion?

2 Q. Well, the question is whether it's unfair  
3 to Ms. Partello to grant the motion without  
4 notifying her that Kathleen Sternenberg is on your  
5 conflicts list. Isn't that the real issue here?

6 A. Well, that's a problem, correct.

7 Q. And you thought about it, but you did  
8 nothing about it? Do I have that right?

9 MR. DELANEY: Objection. Asked and  
10 answered.

11 You may answer the question.

12 A. I thought about it, and I granted the  
13 motion at the time.

14 Q. (By Mr. Waystack) So let's go to the first  
15 page of Exhibit 6. So at the first page of  
16 Exhibit 6, the notice of decision, we have talked  
17 generally about this. It looks like this is the  
18 court's file copy; correct?

19 A. Yes.

20 Q. Okay. That's what it says, "File Copy."

21 If you go to the bottom of the page,  
22 there's something different in the bottom of the  
23 page, isn't there, something different about the

1 A. Correct.

2 Q. Now, you are not JDL, are you?

3 A. No.

4 Q. You are JAI?

5 A. That's right.

6 Q. So I expect you probably have been paying  
7 pretty close attention to this case. And you know  
8 that Ms. Lodes, Julianne Lodes -- first of all, I  
9 took her examination under oath. Secondly, she was  
10 deposed by your counsel recently. I am sure that  
11 you are aware of her testimony that, on January 9,  
12 2020, which I will represent to you was a Thursday,  
13 that she went to your chambers and assisted you with  
14 making some markings on exhibits. Are you aware of  
15 that?

16 A. Yes.

17 Q. Okay. And so why don't you tell me -- on  
18 January 9, 2020, when Ms. Lodes made these  
19 notations, tell me what you recall the discussion  
20 was between the two of you and what you asked her to  
21 do.

22 A. I had spoken with her that morning. I was  
23 responding to the complaint in the Partello case.

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1 When I started that -- I guess it was an answer, I  
 2 went looking particularly for an order that was  
 3 referenced in Ms. Partello's complaint but was not  
 4 attached to her complaint. So I was looking to  
 5 finish a partial answer, which I could not until I  
 6 saw an order that was referenced.

7 On the morning of the 9th, when I went to  
 8 look for that order that had not been attached to  
 9 the complaint, I found a number -- well,  
 10 specifically two documents in the file that someone  
 11 had applied Wite-Out to those documents, and that  
 12 was of concern to me.

13 Q. What was the document that you were  
 14 looking for that was referenced in Ms. Partello's  
 15 complaint?

16 A. I now know what I was looking for was that  
 17 three-page handwritten order.

18 Q. I am going to refer to it as the Sua  
 19 Sponte recusal order. Is that what you were talking  
 20 about?

21 A. Sure. I think it's No. 35.

22 Q. That's dated March 15, 2019; correct?

23 A. Correct.

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1 Q. And we'll talk about that in a few  
 2 minutes.

3 So you had the file in your chambers on  
 4 January 9, 2020; correct?

5 A. Yes.

6 Q. The testimony previously had been that you  
 7 asked Ms. Lodes to bring it to your chambers on  
 8 January 2, 2020. Do you agree with that statement?

9 A. Yes.

10 Q. Withdraw the question. Incorrect.

11 A. Okay.

12 Q. The testimony has been that you asked -- I  
 13 was correct. Let me try again.

14 MR. WAYSTACK: Sorry, Tina. Old man.

15 Q. (By Mr. Waystack) The issue was that you  
 16 had asked Ms. Lodes to bring what turned out to be  
 17 Volume 1 of the Partello file to your chambers on  
 18 January 2, 2020. Do you agree with that statement?

19 A. I would like to make it more clear.

20 Q. Well, why don't you answer my question.

21 Then you can explain all you want.

22 A. Thank you.

23 No, no, I did ask her to bring it to my

1 chambers. She brought it to me on the 2nd. I  
 2 didn't ask her on the 2nd. I had asked her prior to  
 3 that.

4 Q. Okay.

5 A. Just to be clear. I am just trying to --

6 Q. That's good. Precision is important.

7 So now -- back up. I also saw a  
 8 representation that you say that you did not open  
 9 the file, that is, Volume 1 of the Partello file,  
 10 from January 2, 2020, until January 9, 2020; is that  
 11 accurate?

12 A. Yes.

13 Q. So the file sat in your chambers, and it  
 14 wasn't until Thursday the 20th that you opened it  
 15 and began to look at it?

16 A. Thursday the 9th.

17 Q. Thursday the 9th. What did I say?

18 A. "The 20th."

19 Q. Thursday, January 9, 2020, is when you  
 20 first opened the file. Am I correct?

21 A. That's right.

22 Q. Okay. I have a recollection of being in  
 23 your chambers on one occasion, Judge Introcaso. And

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1 which -- where did you put the file? Which table or  
 2 desk? Where was the file from January 2, 2020, to  
 3 January 9, 2020?

4 A. My right-hand side of my desk where my  
 5 office equipment would be: my pen, my pencil, my  
 6 stapler.

7 Q. Yeah.

8 A. There's a space next to me where I keep  
 9 files to be worked on. It was in the right-hand  
 10 side of my desk.

11 Q. Okay. So back to Exhibit 6 now. So do  
 12 you recall what time of day it was that --

13 A. May I correct my answer? I am touching  
 14 here (indicating) saying "the right-hand side."  
 15 It's the left-hand side of my desk. I apologize.

16 Q. Are you left-hand dominant?

17 A. I am right-hand dominant. But, honestly,  
 18 I haven't known my right from my left since I was a  
 19 child. It's one of those things that -- honestly,  
 20 it's an oddity that I have. But it's the left-hand  
 21 side of my desk.

22 Q. Okay.

23 A. You don't want me to give you directions

	85		
1 while we're driving.		1 System that suggested that you had hearings on	87
2 Q. I won't. I won't ask.		2 Thursday, January 9, 2020?	
3 Okay. So did you ask Julie Lodes to come		3 A. I don't recall it from that circumstance,	
4 up to your chambers on Thursday, January 9, 2020?		4 no.	
5 A. No.		5 Q. So back to the issue of how Julie Lodes	
6 Q. How was it that she came up to your		6 got into your chambers. So you think she was in the	
7 chambers?		7 courtroom and just came by? Is that it?	
8 A. She was working in Courtroom 5, which is		8 A. Yeah. She will come up and she will bring	
9 the courtroom immediately across the hallway from my		9 files up in the morning for judges to sign. She has	
10 chambers. And we routinely just speak without		10 a cart that she can work off of.	
11 phones or anything. We can just vocally hear one		11 Q. Yeah.	
12 another back and forth. So I did ask her to come		12 A. She, essentially, has a clerk's office	
13 into my office at some point.		13 workstation and a workstation completely set up in	
14 Q. Okay. You had some hearings on Thursday,		14 Courtroom 5. So even though I may not be sitting in	
15 January 9, 2020.		15 5, which is my, let's say, assigned courtroom, Judge	
16 A. Not that I recall. None were scheduled.		16 Derby, Master DalPra, a visiting judge, anyone else	
17 Q. But Julianne Lodes was your so-called		17 could be in that courtroom and Julie would generally	
18 courtroom clerk. So if you were hearing a matter in		18 be the one who was also their courtroom clerk.	
19 court, Ms. Lodes was likely in the courtroom with		19 So on the morning of the 9th, she was	
20 you. Is that a fair statement?		20 stationed in the courtroom that morning. I don't	
21 A. Yes. She generally worked in Courtroom 5.		21 know --	
22 Q. But, as you sit here today, you don't		22 Q. Do you recall -- go ahead.	
23 recall having any hearings on Thursday, January 9,		23 A. No. I was just saying I don't know what	
	86		88
1 2020?		1 she was specifically doing at that time.	
2 A. I don't recall having any hearings in that		2 Q. Okay.	
3 room that day.		3 THE WITNESS: Excuse me. Attorney Dell,	
4 Q. Okay. Now, last week Attorney Delaney did		4 could I --	
5 a relatively extensive review of the Odyssey Case		5 MR. DELANEY: Just off the record for a	
6 System in order to learn some information. I am		6 second.	
7 assuming that you were aware of that, Judge		7 (Off the record.)	
8 Introcaso?		8 Q. (By Mr. Waystack) Okay. So tell me.	
9 A. Are you referring -- I was present at that		9 What's your best recollection as to what time of day	
10 time.		10 it was on Thursday, January 9, 2020, when Julie	
11 Q. That's what I thought. And I would		11 Lodes came into your chambers, and you began talking	
12 assume --		12 about the file, and she made the marks on Exhibit 6	
13 A. I was communicating with him. Is that the		13 that I just asked you about?	
14 Odyssey? Yeah, we communicated about that.		14 A. Oh, that -- that took a period of time.	
15 Q. I would assume, just because of the		15 You are talking from somewhere between the	
16 complexity of the Odyssey System, that you were sort		16 9:00 o'clock hour till probably 10:00-ish. And the	
17 of giving Attorney Delaney instructions on what to		17 whole matter didn't wrap up till around 11:00	
18 look for and what to ask for. Is that a fair		18 dealing with this file.	
19 statement?		19 Q. So she might have been with you as long as	
20 A. Well, yes. I explained how the system		20 two hours on January 9, 2020?	
21 worked to him.		21 A. On and off, right.	
22 Q. All right. So in that -- when we did that		22 Q. Okay. So tell me what you said to her	
23 little review, did you see anything on the Odyssey		23 that caused her to make those notations.	

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1 A. I told her that I needed to show the  
 2 committee what the state of the file was as I was  
 3 writing my response. And the only way I could see  
 4 that I could appropriately present them with what  
 5 the actual file looked like was to give them the  
 6 original file so that they could see these documents  
 7 that were of concern to me.

8 And during that period of time where the  
 9 originals would be in the possession of the JCC, I  
 10 wanted there to be photocopies of all the documents  
 11 in the file for reference and just for a complete  
 12 record to be present in the courthouse as well while  
 13 these originals were, essentially, on loan to the  
 14 JCC.

15 Q. So you asked her to photostat this motion  
 16 to exceed fee cap notice of decision and two-page  
 17 motion and margin order and then to write on it and  
 18 to stamp "Copy"; is that right?

19 A. In essence, yes. I asked her to -- we  
 20 went through a number of documents that I thought  
 21 made complete for the committee, the motions that  
 22 had the Wite-Out applied to them, because those were  
 23 two of the orders that I already acknowledged that I

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1 Q. And one of the orders whited out was, sure  
 2 enough, this motion to exceed the fee cap, wasn't  
 3 it?

4 A. Yes.

5 Q. So here's my sense. You tell me if you  
 6 think I am right or wrong. It looks to me like what  
 7 happened -- and I have been trying to scratch my  
 8 head about what those -- I think they are  
 9 fingerprints on page 3 that obstructed part of the  
 10 request that you mentioned earlier. My sense is  
 11 that what happened is, since you had the Partello  
 12 complaint and you were responding to it, that this  
 13 document, that is, page 3 of Exhibit 6, came from  
 14 the Partello file. Do you agree with that  
 15 statement?

16 A. No.

17 Q. Okay.

18 A. I had to make --

19 Q. Let's look at Exhibit --

20 MR. DELANEY: Hold on. Phil, she didn't  
 21 finish her answer.

22 Q. (By Mr. Waystack) Oh, I am sorry. Go  
 23 ahead.

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1 had made in my preliminary answer.

2 So I asked her, I know specifically, to  
 3 mark those documents that had Wite-Out applied as  
 4 originals, because those were the original motions,  
 5 my original order, et cetera; but to make a  
 6 photocopy of those documents that we were marking  
 7 "Originals," mark them "Copy," put them in the file  
 8 with the notation that the reason these aren't  
 9 originals, just FYI, is because the originals are at  
 10 the JCC.

11 Q. Okay. So -- and that may not be the case,  
 12 but we'll get there.

13 So here's what I am a little curious  
 14 about: If you turn to the third page of Exhibit 6,  
 15 I see your margin order clearly, "over the  
 16 respondent's objection" -- "Motion granted over the  
 17 respondent's objection at 36." You see it clearly,  
 18 too, don't you?

19 A. Yes.

20 Q. But the problem is that it was on  
 21 Thursday, January 9, 2020, that you discovered that  
 22 two orders had been whited out. Am I right?

23 A. Yes.

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1 A. That's fine. That's fine.

2 Q. I don't want to cut you off, Judge.

3 MR. DELANEY: I just need to clarify. Did  
 4 you ask about the Partello file being -- what  
 5 Partello file? There's two Partello files.

6 MR. WAYSTACK: Okay. Thank you. We'll  
 7 clear it up.

8 MR. DELANEY: Let's get this clear.

9 THE WITNESS: Thank you.

10 Q. (By Mr. Waystack) We will do that. And  
 11 the way we'll do that is by turning to Exhibit 7  
 12 first. Let's turn to Exhibit 7.

13 MR. DELANEY: Let me ask you this: Are  
 14 you withdrawing your question, or do you want  
 15 to allow her to finish answering?

16 MR. WAYSTACK: If she hasn't finished  
 17 answering, go ahead and finish your answer. I  
 18 will come back to it after 7.

19 Q. (By Mr. Waystack) If you want to finish  
 20 answering, Judge Introcaso, go ahead.

21 A. I would like to finish answering.

22 With respect to this page, okay, yes,  
 23 there's blotches all over it. There -- you will

	93		95
1 notice there are also side punches on this document.		1 notice of decision and two-page motion of GAL	
2 I knew that this -- or, I should say, I know that		2 Kathleen Sternenberg to exceed the fee cap, similar	
3 this came from Robin Partello's complaint --		3 to Exhibit 6; correct?	
4 Q. Okay.		4 A. Yes.	
5 A. -- because that's the only place that this		5 Q. There are some differences, however, on	
6 written order was reflected. It was no longer in		6 these two documents, aren't there?	
7 the file.		7 A. Yes.	
8 Q. Right.		8 Q. Okay. So let me just try and focus on	
9 A. So in order -- when I was talking to		9 that. On the first page of Exhibit 7, the notice of	
10 Ms. Lodes, it was like, "This is the order I made."		10 decision, up in the top hand right, I see the	
11 And I was looking at a copy that Ms. Partello had		11 following -- it looks like handwriting. Very	
12 produced probably from her own notice of decision		12 neatly, there is, it looks like, an "A" within	
13 and attached to her complaint.		13 parentheses as if this was being added an as	
14 Q. All right. Thank you for saying that.		14 exhibit, for instance, to a response. Then	
15 So keep Exhibit 6 in front of you for		15 underneath the "A," I think that's a diagonal line	
16 a sec. So to be totally accurate about it,		16 striking that.	
17 Exhibit 6 --		17 A. Right.	
18 A. Yeah.		18 Q. And it looks to me like there's a	
19 Q. -- Exhibit 6 is not a copy of the original		19 signature. I am going to say it's "Julie." Is that	
20 court's file. The first two pages, that is, the		20 your signature, Judge?	
21 notice of decision, this file copy -- I don't know		21 A. That's right, first name only.	
22 what the second page is, but the third page clearly		22 Q. Okay. And then underneath that, it looks	
23 is not from the court's file. It's from Robin		23 like it's "Julie" again and it says "1/10/20" and	
	94		96
1 Partello's judicial conduct complaint, isn't it?		1 the word "Stricken" --	
2 A. Yes.		2 A. Yes.	
3 Q. So, really, to stamp "Copy" on Exhibit 6		3 Q. -- and then two lines underneath it. Is	
4 is not accurate, is it, Judge?		4 that your --	
5 MR. DELANEY: Objection to the form.		5 A. Yes.	
6 You may answer the question.		6 Q. -- handwriting?	
7 A. It's a copy. It's not a copy of how the		7 A. Yes.	
8 original file looks, but I couldn't see whether or		8 Q. And did you make those entries on	
9 not that was in the file based on my review of the		9 Exhibit 7?	
10 file.		10 A. Yes.	
11 Q. (By Mr. Waystack) Let's turn to Exhibit 7.		11 Q. Okay. And when I look at the bottom of	
12 MR. DELANEY: Phil, while you are		12 Exhibit 7, again, the notice of decision -- and it	
13 transitioning, just for the record, you made a		13 may be worthwhile to have Attorney Delaney give you	
14 statement that Exhibit 6 has Bates numbers from		14 back Exhibit 6 and put them side by side.	
15 the McLane firm which was a color copy of the		15 A. I have it right here.	
16 Partello case file. For the purposes of the		16 Q. Okay. So what else has changed is on	
17 record, I believe you are providing the		17 Exhibit 6 in the bottom right was a stamp "Copy";	
18 deponent with only black-and-white copies of		18 correct?	
19 what you stated was a color copy of the file,		19 A. Yes.	
20 and I want that to be noted for the record.		20 Q. Here on Exhibit 7, there's no "Copy," and	
21 MR. WAYSTACK: Fair enough. Fair enough.		21 it says "Original." The stamp says "Original,"	
22 Q. (By Mr. Waystack) Okay. Exhibit 7. So,		22 doesn't it?	
23 again, to try and save some time, Exhibit 7 is a		23 A. Yes.	

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1 Q. But there's no Julie Lodes handwriting  
2 here, is there?

3 A. Well, no.

4 Q. Okay. So my question to you is, Judge  
5 Introcaso, are you the one who put the "Original"  
6 stamp on the first page of Exhibit 7?

7 A. I don't believe so.

8 Q. You are not sure, are you?

9 A. I don't have those stamps. I don't have  
10 an Original stamp or a Copy stamp, which leads me to  
11 think it was not me.

12 Q. You had Julie Lodes bring into your  
13 chambers on January 9 both an Original stamp and a  
14 Copy stamp, didn't you?

15 A. Oh, yes.

16 Q. If you turn to the second page of  
17 Exhibit 7, that "Original" stamp is on that page  
18 also, isn't it?

19 A. Yes.

20 Q. And if you turn to the third page of  
21 Exhibit 7, the "Original" stamp is on that page  
22 also, isn't it?

23 A. Yes.

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1 would have been; so there was no notation made. I  
2 thought a notation was important on the copies.

3 Q. As it turned out, you did not send the  
4 originals of the exceed-the-cap order to the  
5 Judicial Conduct Committee, did you?

6 A. No.

7 Q. And to your knowledge -- you may not know  
8 this. But the attorney general has those two  
9 original motions, the Apple Pay motion of 3/12/19  
10 and the exceed-the-cap motion in their possession  
11 right now. So let me ask you this. I am going to  
12 ask you directly, Judge Introcaso. Did you white  
13 out the margin order on page 3 of Exhibit 7 to  
14 obstruct -- to obscure it by using Wite-Out tape?

15 A. No.

16 Q. Okay. On January 9, 2020, when Ms. Lodes  
17 was in your chambers helping you make copies and  
18 stamping documents and whatnot, did you ask her if  
19 she whited out the two March 12, 19, orders I just  
20 referred to, the exceed-the-cap order and the Apple  
21 Pay order?

22 A. In essence, I did. I said to her, "I hope  
23 you did not do this to protect me." That's the

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1 Q. But the difference is, on page 3 your  
2 margin note is totally obscured, isn't it?

3 A. Right. That was the original when I found  
4 it. It would look like a motion with no order on  
5 it. And it's hard to see because it's a photocopy.  
6 But, right, where my granted motion had been  
7 written, there was Wite-Out applied on it. That  
8 was, in fact, the original document in the file.

9 Q. Can you explain to me why Exhibit 6 has a  
10 date and handwriting by Julie Lodes but Exhibit 7  
11 does not?

12 A. Oh, because I -- I thought the -- any  
13 member of the public, any lawyer involved in the  
14 case would come in and wonder why there are copies  
15 there. So that's just an explanation to say we  
16 recognize this is a copy. We recognize there's --  
17 there's a couple other documents where she  
18 acknowledged that these were copies. Okay?

19 We didn't have to -- I didn't feel the  
20 need to notate anywhere that the originals were  
21 originals because I wrote to the JCC -- I was  
22 writing to the JCC telling them, "I am sending you  
23 the originals." So I am not sure what the notation

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1 complete statement.

2 Q. So you -- so, in essence, you accused her,  
3 but you are suggesting it was softer language; is  
4 that right?

5 MR. DELANEY: Objection to form.

6 Misstates the testimony.

7 You may answer the question.

8 A. I asked her -- I should say I made a  
9 statement that, "I hope you did not do this to  
10 protect me," or, "I hope you didn't do this to  
11 protect me."

12 Q. And how did she respond to you?

13 A. Just with a, "No. I know I didn't do  
14 that," which is what I was expecting to be her  
15 answer.

16 Q. There was no hesitation in her response,  
17 was there?

18 A. No, not that I recall.

19 Q. As a matter of fact, up until that time,  
20 the two of you had a rather close relationship,  
21 hadn't you?

22 A. We have a very close relationship.

23 Q. Was it clear to you that she felt offended

1 when you asked her that? 2 A. No. 3 Q. Okay. What did you mean, "I hope you 4 didn't do this," with the terms, "to protect me"? 5 What was that a reference to? 6 A. That was a reference to the fact that I 7 have a very good staff. And they are my second set 8 of eyes, and they help me out an awful lot. And 9 particularly with respect to Ms. Lodes, she's that 10 person I rely on to bring files back to me if I 11 have, you know, flipped the plaintiff and the 12 defendant. She does a lot of that kind of stuff for 13 me. And I think she cares about me a lot, and she 14 knew that I had this complaint that had come on the 15 tails of a larger complaint about a year ago. And 16 I -- I asked her that just almost in a maternal way. 17 You know, "Boy, I hope you didn't do that to protect 18 me." It would not have been a smart thing for her 19 to do. I don't think she really would have done it, 20 but I know that she cares about me enough that she 21 wouldn't want me to be concerned or suffering or 22 panicking over this. So I guess it was a 23 combination of all those sort of complex factors in	101	1 and a half hours to try to figure out who did. 2 Q. (By Mr. Waystack) Well -- 3 A. So if your question is was I asking 4 because I thought that she was trying to protect me 5 from the complaint? Honestly, I don't think she -- 6 she would have or was trying to do that. It was 7 more of a -- it was an introductory comment to the 8 discussion. I don't know how to explain it other 9 than that. It -- it wasn't intended of having the 10 weight of the words to it. In the same way we joke 11 about a lot of other things, I was not joking. Let 12 me put it that way. But it was casual. It was not 13 accusatory. 14 Q. So let's go back to what I am really 15 interested in knowing, which is this: As of 16 January 9, 2020, you really hadn't discussed your 17 judicial conduct complaint by Robin Partello with 18 Ms. Lodes in any detail at all, had you? 19 A. Not true. She and I had been talking 20 about it for probably a month, a month and a half. 21 Q. Okay. So that's -- okay. All right. On 22 that issue, I need some dates here. Let me back up 23 a bit. So do I understand that you went out on	103
1 our relationship. But I would not accuse Ms. Lodes 2 of doing anything inappropriate. 3 Q. So I am having a little confusion about 4 understanding how she might have protected you by 5 whiting it out. Was your implication "I hope you 6 didn't do this to protect me" that you whited this 7 out so I wasn't in trouble with the Partello 8 complaint? Was that why she was protecting you? Is 9 that what you thought? 10 A. I guess. I mean, I guess that's what I 11 was implying, yes. 12 Q. Had you discussed -- go ahead. 13 A. You are not -- 14 MR. DELANEY: She hasn't finished her 15 answer, Phil. 16 A. That's what I was meaning to say, is, you 17 know, it was really -- it was a comment where I 18 said -- you know, I showed it to her and I said, "I 19 hope you didn't do this to protect me." It was not 20 intended as a serious accusation by any means. She 21 said, "No, I" -- "No, I didn't do that." Sort of 22 like, "Of course I wouldn't do that." And, you 23 know, we went on to work together for another two	102	1 leave sometime in October of '19? 2 A. Yes. 3 Q. The sense I have is it's around October 5 4 or 6. Can you help me with that date? 5 A. Well, yeah. I believe the 5th and the 6th 6 were the weekend. But I did not go -- the first day 7 out of work was the 7th, I believe, a Monday; but 8 you would have to check the calendar. But I believe 9 Monday I was officially, you know, on leave, as of 10 Monday, October 7. 11 Q. And when did you return? 12 A. On December the 16th. Again, it was a 13 Monday, I believe. So I can't be precise, but I 14 believe that was the date I returned. 15 Q. Okay. And then there was a couple of 16 short weeks with Christmas and New Year's in late 17 December; correct? 18 A. Yes. 19 Q. And I am just curious if you can recall. 20 I don't want to waste a lot of time on this. Each 21 of those weeks were two days off. Am I right? 22 A. I, honestly, don't recall. 23 Q. Okay.	104

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1 A. And, candidly, just because it's a holiday  
 2 doesn't mean the court doesn't have to work in some  
 3 respects, but I just don't recall.

4 Q. Okay. So your testimony is that you had  
 5 had plenty of discussions with Ms. Lodes by  
 6 January 9, 2020, about the substance of Robin  
 7 Partello's judicial conduct complaint against you?

8 A. Yes, to the extent we discussed what she  
 9 was alleging and to the extent Ms. Lodes gave me  
 10 information about the fact that she proceeded to  
 11 monitor, as the courtroom case monitor, the case  
 12 after I had withdrawn in March. So she knew a  
 13 little bit more about what was going on in the case  
 14 than I did. So I told her about the complaint. She  
 15 talked with me about the case, but...

16 Q. Back to January 9, 2020. After you asked  
 17 Ms. Lodes if she had done the Wite-Out or done it to  
 18 protect you, you then actually showed her the  
 19 document, didn't you?

20 MR. DELANEY: Objection to form.

21 You may answer the question.

22 MR. WAYSTACK: Well, let me withdraw the  
 23 question. I will start again.

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1 MR. DELANEY: I am just trying to be  
 2 precise about documents, Phil.

3 MR. WAYSTACK: I understand. That's okay.

4 Q. (By Mr. Waystack) Judge, on January --  
 5 Thursday, January 9, 2020, when you were discussing  
 6 a judicial conduct complaint of Robin Partello with  
 7 Ms. Lodes, did you show her the actual whited-out  
 8 order -- either for the exceed-the-cap-fee order or  
 9 the Apple Pay order?

10 A. Yes.

11 Q. And do you remember what she said to you  
 12 when she showed it to you -- when you showed it to  
 13 her?

14 A. I remember a number of things and -- but I  
 15 can't remember the first, per se.

16 Q. Tell me what you remember.

17 A. I remember her saying, "Are you sure  
 18 Ms. Partello wouldn't do something like this?"

19 Q. Okay.

20 A. And we talked about that for a bit by  
 21 looking through the file and such.

22 Q. What else?

23 A. She said something to me about, "You ought

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1 to go back and listen to the last hearing that  
 2 Ms. Partello had, because she said all this same  
 3 stuff about you."

4 And I said -- I remember sort of being  
 5 dismissive of the need to listen to the hearing.  
 6 And she also said to me, "You know, you love  
 7 Wite-Out. It looks like you probably did this."

8 Q. What else did she say?

9 A. We -- you know, I don't remember.  
 10 Generally, we talked about how this could have  
 11 happened. We came up with a number of different  
 12 ways why or how this could have happened.

13 Q. Well, let me ask you this: Do you recall  
 14 her specifically saying to you, when you showed her  
 15 the Wite-Out, "Well, Judge, that really doesn't  
 16 matter because that exact text is in the notice of  
 17 decision?" Do you remember her telling you that?

18 A. Not on that day, no.

19 Q. Okay. Do you remember her saying, "Well,  
 20 Judge, it really doesn't matter because all you have  
 21 to do is hold the Wite-Out up to the light and you  
 22 can read the order right through it"?

23 A. I remember her and I discussing that,

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1 saying, you know, "You are not" -- "It's  
 2 ineffective, because you can see the order right  
 3 underneath it."

4 Q. In other words, she thought you were  
 5 concerned that the order was obscured simply because  
 6 the litigants couldn't see it without reference to  
 7 anything else? Isn't that the way she felt?

8 A. I don't know. I don't know what she felt.  
 9 I do recall talking about the fact that it was -- it  
 10 was, basically, transparent. You could see my order  
 11 underneath by looking at the other side.

12 Q. Let's turn to Exhibit 8, if we can.

13 Exhibit 8 is a notice of decision and two-page  
 14 motion from Kathleen Sternenberg for instructions,  
 15 but it's referred to as the "Apple Pay" order. Does  
 16 that ring a bell with you, the Apple Pay order?

17 A. Yes, it does.

18 Q. Am I correct? Is that what this document  
 19 is?

20 A. Yes. This is, I believe, Attorney  
 21 Sternenberg's request that the court order  
 22 Ms. Partello to pay in a form other than Apple Pay,  
 23 in essence.

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1 Q. So let's look at the document for a  
 2 moment. The first page of Exhibit 8 is the notice  
 3 of decision.

4 A. Correct.

5 Q. And as with the previous exhibit,  
 6 Exhibit 7, the handwriting on the top right-hand  
 7 portion of the exhibit, based on your previous  
 8 answers, is your handwriting. And this would have  
 9 been Exhibit B to the response to the JCC; is that  
 10 right?

11 A. Yes. My initial Exhibit B was intended  
 12 for that purpose.

13 Q. And later you drew a line diagonally  
 14 through the "B" and you wrote the word "Stricken";  
 15 correct?

16 A. That's right.

17 Q. And then below the telephone number is the  
 18 date of 1/10/20, which is actually that Friday. Am  
 19 I right?

20 A. Right.

21 Q. So the previous exhibit we talked about,  
 22 it also has a date of 1/10/20, which would have been  
 23 Friday.

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1 A. That's right.

2 Q. That's the day you actually filed your  
 3 response to the Judicial Conduct Committee, is it?

4 A. That's, right, the day I put it in the  
 5 mail, so to speak.

6 Q. Okay. And the word "Copy" also appears on  
 7 the first page of Exhibit 8, doesn't it? The stamp  
 8 "Copy"?

9 A. Yes, it does.

10 Q. Yeah. Okay.

11 On the bottom of the first page of  
 12 Exhibit 8, no handwriting from Julianne Lodes;  
 13 correct?

14 A. No. No.

15 Q. Did you stamp the word "Copy" on that  
 16 document, Judge Introcaso?

17 A. I don't know.

18 Q. Okay. The bottom right-hand portion of  
 19 page 1 of Exhibit 8, there is a stamp -- it looks  
 20 like a stamp of the word "Original." Do you see it?

21 A. That's right.

22 Q. And did you stamp "Original" on page 1 of  
 23 Exhibit 8, Judge Introcaso?

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1 A. Again, I don't recall. I just don't  
 2 recall who did that.

3 Q. Page 1 also -- page 1 of Exhibit 8 also  
 4 reflects that this is the file copy; correct?

5 A. Yes.

6 Q. And if we turn the second and third page  
 7 of Exhibit 8, they all have the "Original" stamp on  
 8 the bottom of the page, don't they?

9 A. Right.

10 Q. But you can't see any margin order on  
 11 page 3, can you?

12 A. No. There's a lot of black spotting.

13 Q. Yeah. And you know that there was a  
 14 margin order on the third page of this -- of the  
 15 original of this exhibit at one point, don't you?

16 A. That's right. I made an order with some  
 17 narrative language.

18 Q. Let me jump ahead a sec here. I will come  
 19 back to that later.

20 Okay. So did you show Ms. Lodes the Apple  
 21 Pay order that had been whited out on the third page  
 22 on January 9, 2020?

23 A. Again, I have no specific recollection,

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1 but I am sure I did. I wouldn't doubt that.

2 Q. Why is it that Ms. Lodes didn't write her  
 3 initials on Exhibit 8, the Apple Pay order?

4 A. Again, because this was going -- this --  
 5 what we -- what I believe I am looking at are  
 6 photocopies of the original documents that would be  
 7 in the file. So I made a point of asking her to  
 8 stamp them Original or I stamped them Original.

9 Again, I am not clear on the stamping. But I wanted  
 10 these to be notated as originals that would be then  
 11 sent to the JCC.

12 The JCC was going to have an accompanying  
 13 letter that explained that I was sending them  
 14 originals. I didn't feel as though we needed any  
 15 notation on the originals because we had the  
 16 corresponding letter to the JCC explaining what we  
 17 were providing for them. It was only the documents  
 18 that were going to be returned to the court file as  
 19 photocopies, not originals, which is what you would  
 20 expect to see in the court file, that I thought  
 21 notations were important.

22 Q. Well, let me ask you this: What I am a  
 23 little confused by is you are talking about you

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1 stamped it "Original" so the court would understand.  
 2 Why is the word "Copy" above the exhibit sticker,  
 3 then? I mean, it can't be both a copy and an  
 4 original, can it?

5 MR. DELANEY: Objection to the form  
 6 relative to testimony about who stamped.

7 You may answer the question.

8 A. No, it can't be.

9 Q. (By Mr. Waystack) So it's kind of  
 10 confusing on its face whether it's an original or a  
 11 copy, isn't it?

12 A. Well, in photocopy form I think it is. I  
 13 don't think it would be as confusing if I could see  
 14 the original document.

15 But I would agree with your initial  
 16 statement. It can't be both a copy and an original  
 17 unless I was sending a copy of something that had  
 18 already been stamped "Original" and didn't -- and  
 19 didn't appropriately notice that. Because I -- I  
 20 had two things that I was doing. I was sending  
 21 things to the JCC. That was my initial plan. And I  
 22 was responding to a complaint, which is -- which is  
 23 a lot of what's going on in those upper right-hand

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1 corners, is, you know, it was B for one purpose.  
 2 And then I was using it again for the purpose of  
 3 answering my complaint; so I would strike the B.

4 So that's the only possible explanation  
 5 that I could have, is that the original was now a  
 6 photocopy and I was sending a -- I was sending a  
 7 copy as part of my response.

8 Q. You would agree with me now that Exhibit 8  
 9 is not the original Apple Pay order, is it?

10 A. No. It's a photocopy.

11 Q. And so the words -- the stamp "Original"  
 12 on this is -- it's inaccurate, isn't it?

13 A. Well, right. It's a photocopy of  
 14 something that had been designated as an original.

15 Q. The original of that order is now in the  
 16 hands of the attorney general, to my knowledge.

17 All right. What time did Julie Lodes  
 18 leave your chambers on Thursday, January 9, 2020, to  
 19 the best of your recollection?

20 A. I could probably be more clear, but I am  
 21 going to say my recollection is sometime around the  
 22 11:00 o'clock hour; after about two hours, it  
 23 seemed.

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1 Q. Did you later have a discussion with a  
 2 member of the court staff, Nancy Dabilis, on  
 3 Thursday, January 9, 2020?

4 A. I did.

5 Q. Did you ask her to come to your chambers?  
 6 A. I don't know if I did that specifically or  
 7 I made a request through someone else. But I did  
 8 want to speak with her, and she came to my chambers  
 9 to speak with me.

10 Q. Tell me what you recall of your  
 11 conversation with Nancy Dabilis on Thursday,  
 12 January 9, 2020, in your chambers.

13 A. Nancy appeared to know what was going on  
 14 already.

15 Q. Why do you say that?

16 A. Because she just did. She seemed to know  
 17 what was going on. It was already two hours into  
 18 the day. Julie had been up and down looking for  
 19 sign-out sheets and stuff; so there was -- there was  
 20 already some, if you will, sort of dust getting  
 21 kicked up about, "We're having problems up in the  
 22 file trying to find things for Judge Introcaso,"  
 23 okay, because I know she went down to look for the

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1 sign-out sheets and such.

2 But Nancy came up and asked me, you know,  
 3 "So what's the problem with this file?" sort of  
 4 thing.

5 And I recall telling her kind of the quick  
 6 version. "You know, I am trying to respond to a  
 7 complaint. I have this file. Look at these two  
 8 orders. They have been whited out." And I said,  
 9 again, "Is there any possibility someone downstairs  
 10 would have done this?"

11 And I remember her specifically saying,  
 12 "No. My girls wouldn't have done that," used that  
 13 term, "My girls wouldn't have done that." And I  
 14 then went through to show her one of sort of the  
 15 theories that Julie and I had come up with. And she  
 16 said, "No. I still don't think that that would have  
 17 happened," or, "could have happened," but that she  
 18 would "check and let me know" kind of thing.

19 And I said, "Because, you know, somebody  
 20 has got to look into this." I mean, I could be  
 21 more...

22 Q. Have you finished your answer?  
 23 A. I finished my answer.

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1 Q. Did you accuse Nancy Dabilis of whiting  
2 out the Apple Pay order and the exceed-the-cap  
3 order?

4 A. I have no recollection of accusing Nancy.  
5 As I said earlier, I wanted to talk to Nancy about  
6 whether or not anyone on the staff may have done  
7 this. There is very high turnover, and there was a  
8 number of new people who I thought may not be  
9 properly trained on how to do this.

10 Q. I am going change my selection of words,  
11 Judge. Did you ask Nancy Dabilis if she whited out  
12 the Apple Pay order and the exceed-the-cap order?

13 A. I may have asked her. I may have asked  
14 her, but I have no recollection of asking her, in  
15 particular.

16 Q. I mean, it sounds to me like, on Thursday,  
17 January 9, 2020, you are asking several of the court  
18 staff in an effort to find out who did this. Is  
19 that what you were doing?

20 MR. DELANEY: Objection to the form.

21 You may answer the question.

22 A. I was inquiring of a number of people over  
23 the course of the morning what they knew about the

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1 file. With respect to Julie specifically and Nancy  
2 specifically, I remember very clearly what I said to  
3 Julie and I have told you that.

4 With respect to Nancy, because this was a  
5 marital file and she was head of the marital  
6 department, I was basically trying to get from her,  
7 you know, "What do you know about this file? Who  
8 has been touching it? Could someone have read  
9 orders that occurred following my orders that would  
10 have caused someone to go back and apply Wite-Out to  
11 my orders?"

12 And we discussed that, and she said, "No.  
13 You know, none of my girls would do that."

14 And, again, I was simply trying to point  
15 out to her that, you know, there are people who  
16 aren't fully trained and could have misinterpreted  
17 some of what happened in the file that resulted in  
18 the application of the Wite-Out.

19 Q. Wait a minute. Hold on. How does  
20 training have to do with extensive use of Wite-Out  
21 to obscure the two documents that are at the heart  
22 of a judicial conduct complaint? I don't understand  
23 that.

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1 A. Is this the rule --  
2 Q. I mean, how would -- go ahead.  
3 A. I just want to be -- I just want to be  
4 candid with you. Is this the rule I agreed to where  
5 I can't ask my counsel a question?

6 Q. You need to -- you can ask your counsel  
7 any question you want, but you need to answer my  
8 question first. If we're going to take a break and  
9 you are going to talk to counsel, you need to answer  
10 my question first.

11 MR. DELANEY: Let me ask Tina to restate  
12 the question, because it appears to have caused  
13 some confusion. Go ahead, Tina, please.

14 (Question read.)

15 A. I am not suggesting anyone has been  
16 trained to white out orders or put Wite-Out over  
17 judge's orders. What I meant to suggest is that  
18 there were new people -- a number of new people  
19 throughout the year who were handling marital cases.  
20 There was an order written after my orders which, in  
21 essence, stated that my orders were being reviewed  
22 de novo.

23 When I realized that that was in the

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1 file -- I don't know who was the court clerk who  
2 handled that matter in processing that particular  
3 order. I was concerned that an inexperienced court  
4 clerk, who was processing orders, perceived that  
5 order, which was by Judge Derby, on a de novo basis  
6 as replacing the orders I had made in March and was  
7 concerned that, by doing so, they might just take my  
8 orders out since Judge Derby had essentially  
9 indicated my orders no longer matter and entered his  
10 orders with a new notice of decision.

11 And, candidly, when there's people there  
12 for two, three, four weeks sometimes at a time, I am  
13 not confident, given my experience with the court,  
14 that that wasn't a reasonable but terribly misguided  
15 way of handling the substitution of my order. And  
16 that was a concern of mine, which caused me to ask  
17 Nancy about the extent of the training of the staff.

18 MR. DELANEY: Before we go on, my client  
19 had asked for an opportunity to speak to me.  
20 You have got the answer to the question that  
21 was pending per your request. Give us a  
22 minute. I would just like to consult with my  
23 client.

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1	MR. WAYSTACK: Okay.	1	Q. After. Okay.
2	(Off the record.)	2	Does seeing this email refresh your memory
3	Q. (By Mr. Waystack) Can you remember -- and	3	about why Nancy Dabilis may have come to see you?
4	I may have asked you this. If I have, I apologize.	4	A. Well, I think she came up to talk to me
5	Do you remember what time you spoke with Nancy	5	generally, but she had received -- I don't remember
6	Dabilis?	6	if she had received the email or not.
7	A. Um --	7	Q. Okay.
8	Q. Excuse me. On January 9, 2020.	8	A. I just don't know if she had opened it by
9	A. Sure. It was sometime around the lunch	9	the time she came up. I mean, I knew that --
10	hour.	10	Q. Let's put Nancy Dabilis aside.
11	Q. Okay.	11	A. Okay.
12	A. Again, late -- late in that	12	Q. Did any of the other people that you sent
13	9:00-to-11:00-ish time frame.	13	this email to on January 9 at 10:12 contact you?
14	Q. Yeah.	14	A. Two people.
15	A. I do -- I say it was the lunch hour	15	Q. Who?
16	because I know it was Nancy's lunch hour. She	16	A. Emily Redwood.
17	walked in with a bowl of soup in her hand.	17	Q. Yeah. And what did she tell you?
18	Q. Do you have a recollection to sending an	18	A. Emily said she's familiar with the file,
19	email on that day, January 9, 2020, to a bunch of	19	that she has not seen the file in quite some time,
20	court staff and a number of judges and masters?	20	and that she was familiar with Ms. Partello.
21	A. Yes.	21	Q. What else did she tell you?
22	Q. Okay. Would you please turn to	22	A. That's the sum and substance of it.
23	Exhibit 20. Exhibit 20. Take a moment and read	23	Basically, "I don't" -- "I don't know what I could
	122		124
1	that, Judge.	1	do to help you. I know the file exists because I
2	A. I am familiar with this.	2	know Ms. Partello."
3	Q. Okay. So this is an email sent from you	3	Q. Okay. Who was the other person who spoke
4	to the following people, and these are court staff	4	to you?
5	members: Nancy Dabilis, Kimberly Silva, Aline	5	A. Judge Derby called me in response to my
6	Chasseur, Emily Redwood, Kimberly Nunez, and	6	email.
7	Julianne Lodes. That's the court staff. And also	7	Q. Tell me about that conversation, please.
8	to Marital Master Bruce DalPra; Judge Mark Derby;	8	A. Judge Derby called me. I believe he was
9	Judge Patricia Quigley; Kimberly Bonenfant, who is	9	sitting -- well, he was sitting in another court. I
10	the deputy clerk; and Sherry Bisson, who is the	10	believe it was Merrimack, but I can't be certain.
11	clerk.	11	Q. And what did he say?
12	A. Correct.	12	A. I started by telling -- you know, he said,
13	Q. Did I say all of those people to whom this	13	"Yeah, I know the case. What is it that you need to
14	was published correctly?	14	know?" I had already mentioned to him that I had a
15	A. Yes.	15	conduct complaint with respect to Ms. Partello. He
16	Q. And according to the document, according	16	then asked, just what Julie Lodes did, which is,
17	to Exhibit 20, Judge, it looks like the time you	17	"Did you check the sheets to see if Ms. Partello
18	sent this was 10:12 A.M. Do you see that?	18	took the file?"
19	A. Yes.	19	Q. Right.
20	Q. Okay. So my question now is: Did you	20	A. And we had a very kind of light banter
21	speak to Nancy Dabilis before or after you sent this	21	back and forth, and then he said, "Did you see that
22	email?	22	I wrote an order after your motions?"
23	A. After.	23	Because I explained to him -- I said,

<p>125</p> <p>1 "There's been Wite-Out placed over two of my 2 motions" -- "orders."</p> <p>3 And he said something to the effect of, 4 "Oh, that's not" -- you know, "I think that's all 5 set because Ms. Partello came in front of me; was 6 trying to get rid of the guardian; made an issue of, 7 you know, your having signed some things in the 8 case. So I reheard everything, and I issued an 9 order." And he said, "So I think you should be 10 okay," sort of thing.</p> <p>11 And I said, "Well, I appreciate you 12 calling me and letting me know."</p> <p>13 It didn't, at the time, help me a whole 14 lot in answering the question other than 15 formulating, again, the theory I told you earlier. 16 He couldn't remember who worked with him. I think I 17 did ask him that. You know, "Who sat with you that 18 day in terms of a courtroom clerk?"</p> <p>19 But no one else responded. Neither of the 20 clerks, Nancy, no one else responded.</p> <p>21 Q. Did -- so Judge Derby's conversation with 22 you, it sounds like, from what your response is 23 that, as a result of his order -- and we'll get to</p>	<p>127</p> <p>1 best I can say. I think he was trying to be, you 2 know, collegial and reassuring and said, you know, 3 "Hey, if you read my order, I think it will make it 4 clear that she's not got no argument to make. I 5 reheard the case on the motions on the merits and 6 ruled the same way you would have."</p> <p>7 Q. Okay. I just want to understand what you 8 are saying. So in Judge Derby's view based on his 9 conversation with you, the fact that he had, quote, 10 using your words, "reheard the motions and issued an 11 order" meant that the whiting out of the Apple Pay 12 order and the exceed-the-cap order were of no more 13 significance. Is that it?</p> <p>14 MR. DELANEY: Objection to the form.</p> <p>15 Misstates the testimony.</p> <p>16 You may answer the question.</p> <p>17 A. I don't know what he meant.</p> <p>18 Q. (By Mr. Waystack) Well, I just listened to 19 the way you explained it, Judge, and that's what it 20 sounded like to me. But I will move on.</p> <p>21 Let's turn to Exhibit 9, if we can.</p> <p>22 Exhibit 9, take a moment and flip through that.</p> <p>23 It's a four-page document, Judge Introcaso.</p>
<p>126</p> <p>1 that in a minute. That's the April 26, 2019, order 2 that he uses the words "de novo"?</p> <p>3 A. Yes.</p> <p>4 Q. He thinks that, by issuing that order, 5 that made the fact that your Apple Pay order and 6 exceed-the-cap order were whited out okay? Is that 7 your testimony?</p> <p>8 A. No. I don't know what Judge Derby was 9 thinking. I was just saying I think he was trying 10 to be reassuring to me that, because there isn't -- 11 because those orders are no longer able to be read, 12 if you will, in the file, that he reheard the whole 13 thing anyway.</p> <p>14 He said it was very clear that 15 Ms. Partello at his hearing -- he made it appear as 16 though she was all worked up about this conflict. 17 And I think what he was saying is he thinks he 18 straightened out the conflict she should have by 19 giving her a new hearing on those same motions, as 20 he called it, de novo, which is just an unusual 21 phrase to use in the family division. We don't use 22 that frequently.</p> <p>23 But, no, I don't think -- well, that's the</p>	<p>128</p> <p>1 A. Yes.</p> <p>2 Q. Have you flipped through it?</p> <p>3 A. I think I am all set.</p> <p>4 Q. I am going to make a representation you 5 can agree with or disagree with. So it looks to me 6 like Exhibit 9 is a notice of decision on -- that 7 includes a three-page handwritten order from you. I 8 am calling it a Sua Sponte recusal order. Does that 9 seem a reasonable explanation of what this is?</p> <p>10 A. That's fine. It's a ruling on a motion to 11 continue. And that's right, a Sua Sponte recusal or 12 disqualification.</p> <p>13 Q. I don't disagree that it involves a 14 continuance, but that's really of no moment to me.</p> <p>15 So this order is issued. You signed this 16 on March 15, 2019; correct?</p> <p>17 A. That's right.</p> <p>18 Q. That was only three days after you issued 19 the two March 12 orders, the Apple Pay order and the 20 exceed-the-cap order, over the objection of the 21 respondent; correct?</p> <p>22 A. Correct.</p> <p>23 Q. I think we have already established this.</p>

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1 You hadn't contacted the respondent to let her know  
 2 that Attorney Sternenberg was on your conflicts  
 3 list. Something happened to cause you to Sua Sponte  
 4 recuse yourself from this case in the time between  
 5 March 12 and March 15, 2019, and I am wondering if  
 6 you can explain to me what that was.

7 A. Briefly, it's what I would call wise mind.  
 8 It was going from a feeling of discomfort on the  
 9 12th to a feeling of greater certainty when I read  
 10 the motion to continue that I probably should not be  
 11 involved in this case any further. The pretrial and  
 12 the trial had already been scheduled in front of me.  
 13 I knew that I certainly couldn't do that.

14 It was clear by now that these parties  
 15 were obviously quite antagonistic towards one  
 16 another. I did not want to add another issue to  
 17 this case. And I felt very strongly, after having  
 18 issued the March 12 orders, that I absolutely at  
 19 that point had to bring them in, have a status  
 20 conference, disclose my conflict, and deal with  
 21 whatever was pending in the case.

22 Q. But you didn't do that. You thought about  
 23 doing that. But before the status conference was

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1 A. That's right.  
 2 Q. Nowhere here does it say that you vacated  
 3 the two March 12, 2019, orders, does it?  
 4 A. No.  
 5 Q. In fact, you didn't vacate those orders,  
 6 did you?

7 A. No.  
 8 Q. Okay. So if you look -- and I -- we have  
 9 been struggling with some technology here, but  
 10 that's life. I want to point you -- give me one  
 11 second now. Go to the third page of Exhibit 9,  
 12 Judge, if you would.

13 A. Okay. All right. Yeah.  
 14 Q. And I think your lawyer knows this too.

15 If you look at the -- like, the second full  
 16 paragraph on that page --

17 A. "The GAL has been"?

18 Q. No, no. "The court does not believe."

19 A. Oh, okay.

20 Q. Next one down. Okay?

21 A. Correct.

22 Q. So "The court does not believe this  
 23 conflict, under the circumstances as stated above,

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1 held, the lawyer for the petitioner filed a motion  
 2 to continue. You granted the motion to continue and  
 3 then just recused yourself from the case; correct?

4 A. Yes.

5 Q. Okay. If you would turn to the fourth  
 6 page of Exhibit 9?

7 A. Yeah.

8 Q. So this is the order part now. And you  
 9 have got one, two, three orders. Order 1: "Judge  
 10 Julie Introcaso shall have no further involvement in  
 11 this matter," that's what I call the Sua Sponte  
 12 recusal. Nobody asked you to do that. You did that  
 13 on your own, didn't you, Judge?

14 A. Yes.

15 Q. Number 2: "The clerk shall expeditiously  
 16 work with the parties to reassign this matter,  
 17 resolve the pending motions, and schedule this  
 18 matter for any further hearing."

19 Did I read that correctly?

20 A. Yes.

21 Q. And then 3, that "No status conference  
 22 will occur on March 19." So you canceled the status  
 23 order that you had asked to have scheduled; correct?

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1 is one which can be waived."

2 Now, I have got a copy. I haven't got the  
 3 original. But I think that we saw the original. I  
 4 think the word "which" was whited out. Can you tell  
 5 that? Do you know that, Judge?

6 A. It looks like it was whited out and  
 7 written over only because the line is missing.

8 Q. Right. And it is true that you have had  
 9 some experience with Wite-Out, isn't it?

10 A. Absolutely.

11 Q. You frequently used Wite-Out -- and let me  
 12 be clear about what I am going to say -- in the  
 13 process of drafting court orders. And I am not  
 14 suggesting there's anything wrong with that. I just  
 15 want to know. That was your practice, to use  
 16 Wite-Out when drafting orders. Am I right?

17 A. Absolutely. There's one on every desk in  
 18 the courthouse.

19 Q. Okay. And so you actually whited out part  
 20 of page 2 of your March 15 recusal order, didn't  
 21 you?

22 A. Again, I am making that conclusion based  
 23 on the copy in front of me where the line is missing

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1 under the word "which." But also, I will just say,  
 2 "which" and "that" are a common grammatical  
 3 confusion for me. And I probably wrote "that" and  
 4 realized it should be "which."

5 Q. There was nothing that prevented you from  
 6 vacating the March 12, '19, orders in this March 15  
 7 order, was there, Judge Introcaso?

8 A. No.

9 Q. Let's turn to Exhibit 10, if we can,  
 10 two-page exhibit. Exhibit 10 is, first page, notice  
 11 of decision of Judge Derby's order on the removal of  
 12 the GAL. Is that what that is?

13 A. Correct.

14 Q. Second page is Judge Derby's handwritten  
 15 narrative order; correct?

16 A. That's correct.

17 Q. And this is -- this exhibit, Exhibit 10,  
 18 this is what you just referred to when Judge Derby  
 19 called you and told you he took care of that by  
 20 writing this order. Am I right?

21 A. I don't -- again, I want to say that -- he  
 22 did not say he took care of it. He thought that  
 23 this would resolve some of the concerns about

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1 whether or not there was -- there was some  
 2 impropriety about me hearing the motions.  
 3 But, yes, this is -- he alerted me to the  
 4 existence of this on our phone conversation that  
 5 morning. He said, "You should read my April order."  
 6 I don't think he knew the date. But "You should  
 7 read my handwritten order shortly after yours. I  
 8 took those motions up again and issued rulings on  
 9 them."

10 Q. When you had this conversation, did he  
 11 make any mention to you, because these are the  
 12 documents that follow in the case -- or the file,  
 13 court file after the March 12 and March 15 orders,  
 14 did he make any mention to you that he observed  
 15 Wite-Out on either the Apple Pay orders or the  
 16 exceed-the-cap orders when he issued this April 26,  
 17 2019, order?

18 MR. DELANEY: Objection to the form.

19 You may answer the question.

20 A. I don't believe that was in the  
 21 conversation, no.

22 Q. (By Mr. Waystack) Wouldn't you think, if  
 23 he had seen the Wite-Out in those orders on

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1 March 26, when he -- when he reviewed yours -- and  
 2 he says -- in Exhibit 9, he says he reviewed all the  
 3 orders, didn't he?

4 A. He did.

5 Q. Yeah. And so if those orders that he  
 6 reviewed and basically said that he would have  
 7 issued the same orders, if they had had Wite-Out,  
 8 don't you think he would have said something about  
 9 that to you?

10 A. I don't know. I don't know if he looked  
 11 at the motions or the notice of decision or the case  
 12 summary. I don't know what he was looking at. He  
 13 could have been looking at the case summary on his  
 14 laptop in the courtroom. I really don't know.

15 Q. Well, he will be a witness. We'll have  
 16 plenty of time to talk to him about that.

17 So, as you sit here right now, Judge  
 18 Introcaso, do you realize that by issuing those two  
 19 March 12, '19, orders, the Apple Pay order and the  
 20 exceed-the-cap order, over the objection of  
 21 Ms. Partello when the person who was seeking the  
 22 relief, the guardian, is on your conflicts list was  
 23 a problem? Do you realize that now?

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1 A. Yes.

2 Q. Let me ask you this, Judge Introcaso: Did  
 3 you ask Judge Derby to review your two March 12,  
 4 '19, orders?

5 A. Never.

6 Q. Did you ever discuss them with him around  
 7 the time you made them?

8 A. Never. He and I talked in January. Those  
 9 orders were in March the year prior.

10 Q. So I guess that's what I am asking you.

11 In March or April of 2019, did you have any  
 12 conversations with Judge Derby about your two  
 13 March 12, '19, orders or your March 15, '19, order?

14 A. Never, not -- don't recall that at all.

15 Q. Well, let me ask you this. As a result of  
 16 your March 15 recusal order --

17 A. Yeah.

18 Q. -- Exhibit 9 --

19 A. Yeah.

20 Q. -- the case went to Judge Derby then;  
 21 right?

22 A. It had been with him for some things  
 23 prior. It had been with Master DalPra as well. It

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1 hadn't really settled into being assigned, if you  
 2 will, to anyone, which doesn't often happen until  
 3 you pick a pretrial or trial date. And the staff  
 4 picked the pretrial and trial date for me, which was  
 5 a -- which was a problem.

6 But it -- I -- we're not like superior  
 7 court. We don't assign judges to cases. There's  
 8 too much moving around. Judges go from court to  
 9 court on odd schedules. You know, it sort of lands  
 10 with someone after you get deep enough into it. But  
 11 up until the time of my March order, I think you  
 12 will see there's three or four different judges who  
 13 have been involved. But Derby was one of them, yes.  
 14 Derby was one of them.

15 Q. Okay. So what we know, Judge Introcaso,  
 16 is after March 15, 2019, you were no longer going to  
 17 handle that case; right?

18 A. Didn't touch it.

19 Q. Okay. And that means for any purpose?

20 A. Any purpose.

21 Q. For appointing a guardian or granting a  
 22 guardian's motion over the objection of any party?  
 23 For anything, you were done with the case; correct?

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1 A. That's my clear recollection.

2 Q. Right. And, I mean, I am not going to  
 3 take the time to do it now because we're running  
 4 long. But my guess is that, if we looked at the  
 5 court summary, it was Judge Derby who handled that  
 6 case. It fell to him. Once you recused yourself,  
 7 he was the one who primarily handled it through most  
 8 of 2019. Do you know that?

9 A. Looking at the case summary that was in  
 10 discovery, I believe that to be the case.

11 Q. Okay.

12 A. Also knowing that Master DalPra was no  
 13 longer sitting, it would have been either myself or  
 14 Judge Derby. So by default, it must have stayed  
 15 with Judge Derby.

16 Q. That's what I was just going to say.  
 17 By then, DalPra is pretty much gone from the  
 18 9th Circuit, isn't he?

19 A. That's right.

20 Q. So, I mean, my curiosity is so if I am  
 21 Judge Derby, you recused yourself with this  
 22 handwritten order. I am the only one who's going to  
 23 have this case because DalPra's gone. I mean, it

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1 would strike me as I would be inclined to reach out  
 2 to you and say, "Tell me a little bit about this  
 3 case, Judge Introcaso. Why is it that you recused  
 4 yourself, or what are the issues?" Are you -- is  
 5 your testimony that he did not do that, Judge  
 6 Introcaso?

7 A. He did not do that. It would be great if  
 8 we had time for those discussions, but we simply  
 9 don't.

10 Q. Okay. Let's go to Exhibit 11.

11 A. And if I might add --

12 MR. DELANEY: No.

13 THE WITNESS: No question. Okay.

14 Q. (By Mr. Waystack) Your lawyer is doing his  
 15 job, Judge. Let him do it.

16 A. I am trying my best. I might not be the  
 17 world's best client, but I am trying.

18 Q. Okay. So let's go back to that first week  
 19 in January 2020. Let's go back to Monday,  
 20 January 6. Okay?

21 A. Yeah.

22 Q. We previously established that you came  
 23 back to the court on December 16, 2019; correct?

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1 A. Right.

2 Q. And, again, I don't want to waste  
 3 anybody's time here because it's getting late. But  
 4 there were some fractured weeks right after that;  
 5 correct?

6 A. Right, the holiday weeks.

7 Q. Let me ask you if you remember this: When  
 8 was the first time after you came back on  
 9 December 16 that you actually sat on a case? Do you  
 10 remember that?

11 A. It may have been, like, the 16th or the  
 12 17th. I think I was given about a day to just go  
 13 through email and such. But, no, I don't remember  
 14 the specific day. But I do think I was given  
 15 something of a breather maybe for a day, day and a  
 16 half just, again, to -- you know, I had two months'  
 17 of emails to look at and things of that nature.

18 Q. Okay. So let's move the calendar to  
 19 Monday, January 6.

20 A. Okay.

21 Q. Monday, January 6. So what Exhibit 11  
 22 is -- I will say it, and Michael -- Attorney Delaney  
 23 can object if he wants. It looks like it's an email

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1 from you to Sherry Bisson sent -- and I am going to  
 2 go to the bottom one -- sent at 8:49 A.M. Do you  
 3 see that?

4 A. Yes.

5 Q. Okay. And what you are referencing to  
 6 Ms. -- Sherry Bisson is the clerk of the 9th Circuit  
 7 Court. Am I right?

8 A. Yes.

9 Q. She's responsible for the scheduling of  
 10 marital cases, family law. She's responsible for  
 11 scheduling district court cases and probate court  
 12 cases; correct?

13 A. On a managerial level, yes.

14 Q. Nancy Dabilis is one of her deputies, so  
 15 to speak, who takes care of family division; right?

16 A. Right. She's the supervisor of the family  
 17 division.

18 Q. There are corresponding supervisors for  
 19 both probate and district, aren't there?

20 A. Yes.

21 Q. And Sherry is on top of all of them, isn't  
 22 she?

23 A. Yes. She is the clerk.

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1 Q. So in your email, you say, "I spoke to  
 2 Judge Ashley on Friday afternoon." That would be  
 3 the 4th -- the 3rd -- the 2nd, January 2nd. "She  
 4 said she would try to find some writing time this  
 5 month if I needed it." And then you go on to  
 6 mention that (as read) "It looks like I am not  
 7 scheduled for anything for the 10th," meaning  
 8 January 10; is that right? Do I have that right?

9 A. Yes.

10 Q. Okay. And January 10 would have been that  
 11 Friday, Friday, January 10, 2020; correct?

12 A. Right.

13 Q. Okay. And you mentioned in the email to  
 14 Ms. Bisson, Sherry, that part of the reason you  
 15 needed some writing time is to get caught up on some  
 16 cases and also on a JCC complaint?

17 A. Yes.

18 Q. That's what you say in this; right?

19 A. Yes.

20 Q. Sherry then responds to you about 10:41  
 21 saying, "I spoke with Judge Ashley this morning, and  
 22 for some reason we didn't schedule you for this  
 23 Thursday and Friday." So you have not one, but two

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1 days to write. That's what her message says; right?  
 2 A. Okay. Yeah.  
 3 Q. And so that would have meant that  
 4 Thursday, January 9, and Friday, January 10 -- that  
 5 you had no court assignments because the case that  
 6 apparently you had been assigned to settled, and you  
 7 could use both days for writing days. Is that what  
 8 that says?

9 MR. DELANEY: Objection to the form.

10 You may answer the question.

11 A. Actually, it had been put in as vacation  
 12 time mistakenly by the court clerks. I was not, in  
 13 fact, on vacation on the 9th or the 10th.

14 (By Mr. Waystack) Okay. So --

15 A. They had entered it as a vacation day and  
 16 scheduled nothing for me.

17 Q. I see. Okay.

18 In any event, you understood that, at  
 19 least as of Monday, January 6, you had that  
 20 Thursday, January 9, 2020, and that Friday,  
 21 January 10, for writing days; correct?

22 A. That's correct.

23 Q. Right. And one of the writing assignments

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1 you had was to complete your response to the  
 2 Partello JCC complaint; correct?

3 A. Yes.

4 Q. And some of the previous testimony and  
 5 documents we have discussed have to do with your  
 6 efforts with Julie Lodes to create documents and  
 7 exhibits to your response to the JCC; correct?

8 A. Yeah, to make some photocopies and such.

9 Q. Okay. So do you have a recollection of  
 10 Sherry Bisson coming to your chambers on Monday,  
 11 January 6, 2020?

12 A. Not at all.

13 Q. Not at all? You don't remember having a  
 14 discussion with her about the JCC complaint on  
 15 Monday, January 6, 2020?

16 A. No.

17 Q. No?

18 A. No. Corresponding via email perhaps, but  
 19 not coming to my office.

20 Q. Okay. Let's look at January -- excuse  
 21 me -- Exhibit 12, please.

22 MR. WAYSTACK: Exhibit 12, Michael.

23 THE WITNESS: I think that's you, Michael.

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1	MR. WAYSTACK: Thank you.	1	He asked about how was my work going in
2	THE WITNESS: Thanks.	2	terms of both catching up on old orders, getting new
3	MR. WAYSTACK: I don't mean to be pushy.	3	orders out? I commented to him that, "I am all
4	I am just trying be efficient.	4	caught up. I am ready to go." I said, "I got my
5	MR. DELANEY: Keep us moving, Phil. Keep	5	JCC order out the door last Friday."
6	us moving.	6	And he responded some way, and I made a
7	MR. WAYSTACK: I am trying to. I am	7	comment to the effect of, you know, although it was
8	trying to. I want you guys out of here before	8	a bear because I took two hours of my morning trying
9	midnight.	9	to figure out how this white out occurred in the
10	Q. (By Mr. Waystack) Judge Introcaso,	10	file. And he immediately said, "I can't talk to you
11	Exhibit 12 --	11	about this." Very distinct.
12	A. Yes.	12	Q. Did you push it?
13	Q. -- this is the margin note on the Apple	13	A. I didn't push it. I have a tremendous
14	Pay order that was missing because of the Wite-Out.	14	amount of respect for him. He and I have spoke over
15	Am I correct?	15	seven years about ethical issues due to our mutual
16	A. Yes.	16	background. And it was pretty clear to me, when he
17	Q. Okay. You recognize that handwriting as	17	said, "I can't talk to you about it," I wouldn't --
18	yours?	18	I would never think to follow up and say, "Jeez, why
19	A. Absolutely.	19	can't you talk to me about it?" I just said,
20	Q. That's your signature, the flowing J?	20	"Okay," and walked out.
21	A. Yes.	21	Q. Did it dawn on you at that point that the
22	Q. Okay. Do you have a recollection of	22	white out is a real problem for you? Did that dawn
23	talking with Judge James Leary at any time the week	23	on you then, as a result of that conversation with
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1	beginning Monday, January 6, 2020, and ending	1	Judge Leary?
2	Friday, January 10, 2020?	2	A. I can't say it was specifically the fact
3	A. I don't recall speaking to Judge Leary	3	that the stuff was whited out. He was sort of
4	that week, no.	4	working in his office as I was -- as I was talking.
5	Q. Did you speak with him the following week?	5	You know, I think he was multitasking. And when I
6	A. Yes.	6	mentioned the whiting out, that's when he kind of
7	Q. That would be the week beginning	7	said, "Stop." And I couldn't tell if it's because
8	January 13, 2020?	8	he had heard something about it. I just didn't
9	A. Yes.	9	know. I didn't know why he said, "Stop." Usually
10	Q. Tell me what you recall about that	10	he's excluded from my cases when he sits on the JCC.
11	conversation.	11	I don't know when it sank in to him, but it was
12	A. That conversation would have been, I	12	clear he was not going to talk to me about this case
13	believe, on Wednesday, which would have been the	13	anymore.
14	15th. I was due to head out on vacation on the 16th	14	Q. Okay. And my question to you was: Did it
15	and the 17th, was where the confusion with the 9th	15	dawn on you at that point that that was a problem
16	and the 10th came in. I had vacation scheduled for	16	for you, the whiting out of those documents, as a
17	that Thursday and Friday of that week. I went in to	17	result of Judge Leary's statement to you?
18	speak with Judge Leary on that Wednesday, I believe.	18	A. I knew the white out was a problem. I
19	It could have been late in the day Tuesday, but I	19	didn't think it was a problem for me.
20	believe it was Wednesday.	20	Q. Who did you think it was a problem for?
21	But the purpose of my going to speak with	21	A. I think it was a problem, in general,
22	him was, again, just a stop in. "Hey, Jim. How are	22	which is why I brought it to everybody's attention.
23	you doing? You know I am leaving on vacation."	23	I was concerned that there was a file in this

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<p>1 condition, which is not how it should be handled.</p> <p>2 Q. Okay. Let me run through a few --</p> <p>3 A. I am just trying to be really clear with</p> <p>4 you that I don't recall, in the course of the</p> <p>5 conversation, that there -- it was sort of</p> <p>6 concurrence in my mentioning the fact that the file</p> <p>7 had these issues and his failure to speak to me. I</p> <p>8 just remember, when I went to speak with him and we</p> <p>9 started to talk about whether or not I had completed</p> <p>10 my Partello response, he quickly shut me down. I</p> <p>11 just don't remember the timing of the subject matter</p> <p>12 when that occurred.</p> <p>13 Q. Well, let me ask you this now.</p> <p>14 MR. DELANEY: Phil, I don't want to stop</p> <p>15 your questioning. So at a convenient time --</p> <p>16 we have now gone over three hours with only a</p> <p>17 five-minute break; so I would just like to</p> <p>18 break soon.</p> <p>19 MR. WAYSTACK: Sure. Give me just a</p> <p>20 couple more questions. Then we'll do that,</p> <p>21 Mike.</p> <p>22 MR. DELANEY: Absolutely. Whatever is a</p> <p>23 good time for you.</p>	<p>1 filed in September of '19.</p> <p>2 A. I agree.</p> <p>3 Q. So by the time we're talking now, which is</p> <p>4 the second week in January 2020, as a member of the</p> <p>5 committee, he's fully aware that there's a judicial</p> <p>6 conduct complaint against you, isn't he?</p> <p>7 MR. DELANEY: Objection to the form.</p> <p>8 You may answer the question if you know.</p> <p>9 A. I don't know.</p> <p>10 Q. (By Mr. Waystack) What you do know is that</p> <p>11 he could not talk to you about the white out of</p> <p>12 those documents, because he told you that; correct?</p> <p>13 A. He told me he would not -- he didn't want</p> <p>14 me talking about my response to the committee.</p> <p>15 Q. Okay. Did you ask him anything else in</p> <p>16 connection with the Judicial Conduct Committee at</p> <p>17 that point that you can remember?</p> <p>18 A. Not that afternoon, no.</p> <p>19 Q. Okay. Can you recall ever having any</p> <p>20 further discussion with him about the Judicial</p> <p>21 Conduct Committee or any of its operation?</p> <p>22 A. That would take hours. We have had -- we</p> <p>23 have had many, many discussions. As I said, I was</p>
150	152
<p>1 MR. WAYSTACK: Let me just make this</p> <p>2 observation. I realize this is important to</p> <p>3 Judge Introcaso. I know she's got a lot to</p> <p>4 say; so I am trying not to interrupt the</p> <p>5 answers, Michael, some of which are long. But</p> <p>6 I know this is important; so we'll just --</p> <p>7 we'll take a break in a minute.</p> <p>8 Q. (By Mr. Waystack) So here's my question to</p> <p>9 you based on your recent response, Judge Introcaso.</p> <p>10 You knew that Judge Leary was on the Judicial</p> <p>11 Conduct Committee, didn't you?</p> <p>12 A. Yes.</p> <p>13 Q. It sounds like you had some discussions</p> <p>14 with him before about that; is that right?</p> <p>15 A. About?</p> <p>16 Q. That he was on the Judicial Conduct</p> <p>17 Committee.</p> <p>18 A. Oh, yes. We talked about it routinely.</p> <p>19 Q. Okay. And when the Partello complaint --</p> <p>20 Robin Partello filed her complaint in September of</p> <p>21 '19, didn't she?</p> <p>22 A. Yes. Again, I get that from the document.</p> <p>23 Q. Yeah. Well, let me represent to you she</p>	<p>1 on the Professional Conduct Committee. I was the</p> <p>2 Attorney Discipline Officer. We have discussed -- I</p> <p>3 have discussed issues with him. He has come to me</p> <p>4 about conduct of attorneys. We have had a lot of</p> <p>5 talks about it.</p> <p>6 The one thing I am certain of and was told</p> <p>7 the day I went into Nashua is "He's on the JCC. He</p> <p>8 won't be sitting on any of your cases," that he</p> <p>9 would be recused and he would recuse himself. So</p> <p>10 the nice thing was for me is I had a mentor who I</p> <p>11 could go to with ethical issues.</p> <p>12 So we talked quite a bit. And -- and some</p> <p>13 things he didn't talk with me about, and maybe it's</p> <p>14 because I knew the person. But most of the time,</p> <p>15 when it was my issues and his issues, we talked very</p> <p>16 freely. So we knew how things were operating with</p> <p>17 respect to the committees and such.</p> <p>18 MR. WAYSTACK: Michael, how long do you</p> <p>19 want for a break?</p> <p>20 MR. DELANEY: Ten minutes.</p> <p>21 MR. WAYSTACK: I have got about seven or</p> <p>22 eight other exhibits. I am hoping we can get</p> <p>23 through them relatively quickly. I am not</p>

1        trying to make this an endurance contest. But 2        I respect the Judge's right to say -- you know, 3        have an elongated answer. So we'll take a 4        10-minute break, and I will try and wrap this 5        up as soon as I can.  6        THE WITNESS: I will work on brevity. 7        MR. WAYSTACK: You don't have to, Judge. 8        This is important. I know it. 9        (A break was taken.) 10      MR. WAYSTACK: So we talked about 11      Exhibit 12. Mike, would you hand the Judge 12      Exhibits 13 through 18. 13      MR. DELANEY: Now you are moving, Phil. 14      MR. WAYSTACK: Well, I am going to run 15      through these quick. 16      Q. (By Mr. Waystack) Okay. So, Judge, 17      Attorney Delaney just handed you five or six 18      exhibits, 13 through 18. Do you have them? 19      A. I do. 20      Q. Okay. 21      A. Whoops. Excuse me. There we go. There's 22      one more there. Yes, I have them all. 23      Q. To save a little time, let me represent to	153	1        A. No. But looking at it, it appears as 2        though both counsel and the parties submitted this 3        as an agreement. 4        Q. Okay. And you don't remember that? You 5        are telling me that because of the way the document 6        looks? 7        A. Yes. This is not a document typed by the 8        court. This is clearly something submitted by 9        counsel. 10      Q. Let's go to Exhibit 14. Exhibit 14 is 11      another order on appointment of guardian ad litem, 12      isn't it? 13      A. Yes, it is. 14      Q. Okay. If you turn to the third page of 15      Exhibit 14, do you recognize your signature? 16      A. Yes. 17      Q. And you signed this on January 30, 2014. 18      Am I correct? 19      A. You can't do that anymore, with the math. 20      Sorry. You asked about the date. Yes, January 30, 21      2014. 22      Q. Thank you. 23      No marital master recommendation here?	155
1        you these are all orders appointing GALs. I am 2        going to ask you just a few questions about each. 3        Okay? So take a look at Exhibit 13, please. 4        A. Yeah. 5        Q. Would you agree with me that it's an order 6        on appointment of guardian ad litem? 7        A. Yes. 8        Q. Okay. Would you turn to the third page of 9        this exhibit? 10      A. Yeah. 11      Q. It looks like you appointed Kathleen 12      Sternenberg as a guardian in this case, that is, the 13      Merrifield case, on September 5, 2013. Do you agree 14      with that? 15      A. That appears to be the case. 16      Q. And that's a direct appointment. There 17      was no recommendation by a marital master here. Do 18      you agree with that statement? 19      A. There was no recommendation by a marital 20      master, yes. 21      Q. Okay. As you sit here today, and I know 22      this is a long time ago, do you remember anything 23      about this case?	154	1        A. No. 2        Q. Go to the first page of Exhibit 14. 3        A. That's right. 4        Q. Paragraph 2, Kathleen Sternenberg. 5        A. Correct. 6        Q. Do you recognize that handwriting? 7        A. That's Julie Lodes. 8        Q. Julie Lodes's handwriting? 9        A. Yes -- 10      Q. Okay. 11      A. -- as I explained earlier. 12      Q. I am sorry? 13      A. As I explained to you earlier, the clerks 14      would often assign the guardian ad litem. 15      Q. Okay. Do you remember anything about this 16      case, the Sobell case? 17      A. No. 18      Q. Do you remember whether -- 19      A. Sorry. 20      Q. Do you remember whether Thomas Sobell and 21      Patricia Sobell asked you to appoint Kathleen 22      Sternenberg? 23      A. Oh, no. No, I have no direct recollection	156

<p>157</p> <p>1 of that at all.</p> <p>2 Q. Turn to Exhibit 14 -- excuse me -- 15,</p> <p>3 please. This is an order on appointment of guardian</p> <p>4 ad litem also, Judge?</p> <p>5 A. Yes.</p> <p>6 Q. If you turn to the third page of</p> <p>7 Exhibit 15 --</p> <p>8 A. Yeah.</p> <p>9 Q. -- is that your signature signing this</p> <p>10 initially on May 12, '15, later amending it on</p> <p>11 June 22, 2015?</p> <p>12 A. Yes.</p> <p>13 Q. And there's no recommendation by a marital</p> <p>14 master here. Am I correct?</p> <p>15 A. That's right.</p> <p>16 Q. Do you remember anything about this case?</p> <p>17 A. I don't. And I remember -- I remember the</p> <p>18 name Berniece Crawford, but I don't remember</p> <p>19 anything factually about the case. I recall that as</p> <p>20 a name on a case file.</p> <p>21 Q. Let me tell you what you may remember.</p> <p>22 Take a look at Berniece Crawford and her address.</p> <p>23 She's your neighbor, isn't she?</p>	<p>159</p> <p>1 writing, though. I am not sure I know whose writing</p> <p>2 that is. It's not mine.</p> <p>3 Q. Okay.</p> <p>4 A. But, again, I don't know who selected her</p> <p>5 as the guardian.</p> <p>6 Q. Let's go to Exhibit 16. Now, Exhibit 16</p> <p>7 has a -- it's more information, a multipage exhibit</p> <p>8 that begins with the order on appointment of</p> <p>9 guardian ad litem. Do you have it?</p> <p>10 A. Yeah.</p> <p>11 Q. Kathleen Sternenberg is the guardian</p> <p>12 appointed in paragraph 2; correct?</p> <p>13 A. Yeah.</p> <p>14 Q. Page 3 of Exhibit 16, your signature,</p> <p>15 Judge?</p> <p>16 A. Yes.</p> <p>17 Q. On August 20, 2015?</p> <p>18 A. Yes.</p> <p>19 Q. Do you remember if the parties agreed to</p> <p>20 Kathleen Sternenberg as the guardian ad litem?</p> <p>21 A. I don't remember that. But my practice</p> <p>22 would be that I would not have -- if I am the one</p> <p>23 who typed this form to put all the preliminary</p>
<p>158</p> <p>1 A. Oh, my goodness. I just moved there about</p> <p>2 12 months ago.</p> <p>3 Q. So I am not giving away your secrets here,</p> <p>4 but you know where you live. It looks like E-304 is</p> <p>5 in a different location than where you live.</p> <p>6 A. Yeah. I live in G-306 and moved in in</p> <p>7 2020. It's a huge complex.</p> <p>8 Q. Okay. So you don't -- other than the fact</p> <p>9 that she has an address near you, you don't know</p> <p>10 Berniece Crawford?</p> <p>11 A. No, I don't.</p> <p>12 Q. Okay. Do you remember whether the parties</p> <p>13 asked you to appoint Attorney Sternenberg?</p> <p>14 A. I don't. But, again, I can -- it appears</p> <p>15 as though Julie Lodes did.</p> <p>16 Q. Okay. If you look at paragraph 2 on the</p> <p>17 first page of Exhibit 15, that isn't Julie Lodes's</p> <p>18 handwriting, though, is it?</p> <p>19 A. It doesn't look like it. But at the</p> <p>20 bottom, because it says "Amended, given in hand and</p> <p>21 sent to Attorney Sternenberg on," there's the "JL"</p> <p>22 at the end, which I think is Julie's -- I don't -- I</p> <p>23 will say I don't recognize that to be Julie's</p>	<p>160</p> <p>1 things in, I would have -- it's my handwriting. I</p> <p>2 certainly would have discussed it with them at some</p> <p>3 point because they don't have counsel. It doesn't</p> <p>4 look like they have counsel.</p> <p>5 Q. Okay. If you turn --</p> <p>6 A. But no specifics.</p> <p>7 Q. -- to the second page of Exhibit 16? I am</p> <p>8 sorry.</p> <p>9 A. Nothing specific.</p> <p>10 Q. Turn to the second page of Exhibit 16.</p> <p>11 A. Yeah.</p> <p>12 Q. About halfway down, there is some</p> <p>13 handwriting that says "respondent's risk taking."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. "Re: Possible use of pornography at</p> <p>17 work," do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. A bit of an unusual circumstance, huh?</p> <p>20 A. I will say yes.</p> <p>21 Q. Okay. Maybe not. I don't know. I mean,</p> <p>22 to me, it seems.</p> <p>23 Anyhow, given that that is one of the</p>

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1 issues, do you think it's likely the parties agreed  
2 on the appointment of Kathleen Sternenberg?

3 A. I don't see why they wouldn't.

4 Q. No? Okay. But you have no independent  
5 recollection?

6 A. No.

7 Q. Let's look at Exhibit 17, please.

8 MR. DELANEY: Phil, before you go on --  
9 and I really appreciate that you are trying to  
10 move -- you have just referenced this as an  
11 order on an appointment of a guardian ad litem.  
12 And, you know, I have about five different  
13 pleadings here, none of which the Judge has  
14 been asked to review. So if you are moving  
15 onto the exhibit, I just want to make sure she  
16 has an opportunity to review it and she hasn't.

17 MR. WAYSTACK: She can flip through it if  
18 she wants. I had not planned to ask her any  
19 questions about the rest of that stuff.

20 MR. DELANEY: And I just want to make sure  
21 there's nothing relative to your questions  
22 about her memory that is actually impacted by  
23 the documents you are showing her.

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1 in this case. I said earlier it didn't look like  
2 there was.

3 Q. (By Mr. Waystack) Okay. So let me ask  
4 you, then, now that you have got me looking through  
5 it. Let's go back to Exhibit 16. Turn to the --  
6 six pages in, Judge; Exhibit 16, 6 pages in.

7 A. "Motion to Exceed"?

8 Q. Right, "Motion to Exceed Guardian ad Litem  
9 Fee Cap." Do you see that?

10 A. Yeah.

11 Q. And that's a form?

12 A. Yes.

13 Q. Once again, Kathleen Sternenberg was on  
14 your conflicts list, is filing a motion to exceed  
15 cap. And below that, on 12/29/15, you approve that,  
16 don't you?

17 A. Yes.

18 Q. Would it surprise you if I told you, from  
19 what I can see on most every case I have looked at,  
20 Attorney Sternenberg moves usually multiple times to  
21 exceed the fee cap in cases? Would that surprise  
22 you?

23 A. I have no idea. I don't know anything

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1 MR. WAYSTACK: Let her take as much time  
2 as she wants to flip through Exhibit 16.

3 MR. DELANEY: This one is just a lot  
4 longer. Thank you.

5 A. The only thing I would like to do is  
6 correct a statement I may have just made saying it  
7 doesn't look like the parties had counsel. Now that  
8 I have gone through it, I looked at the structuring  
9 conference order, and it does indicate that Attorney  
10 Kempton Giggey and Andrew Gallagher were there for  
11 the scheduling conference. It looks like it's been  
12 handwritten filled out by counsel. And one of the  
13 two of them must have written some of those things.  
14 The other things are my writing.

15 But that would -- if I look at the dates  
16 upon which they were signed -- yeah, they are both  
17 August 20. So I would assume we had a scheduling  
18 conference hearing, and this order of appointment  
19 came out of that hearing. And I don't know if they  
20 had brought in the structuring conference order and  
21 the appointment order or we just discussed it at the  
22 hearing and I completed it. But there -- I just  
23 wanted to note there was, in fact, counsel involved

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1 about her business.

2 Q. That's fine.

3 A. The numbers themselves do not strike me as  
4 particularly unordinary.

5 Q. It wasn't the numbers I asked you about.  
6 I asked about when someone -- a guardian on multiple  
7 times moves to exceed the fee caps. Does that  
8 strike you as ordinary?

9 MR. DELANEY: Objection. Asked and  
10 answered.

11 You may answer the question.

12 A. No.

13 Q. (By Mr. Waystack) Okay. Let's go to  
14 Exhibit 17. This is a shorter exhibit again. This  
15 is an order on appointment of GAL. And the name of  
16 the case is Albrecht. Do you see that?

17 A. Yes.

18 Q. Now, this one -- if you look at the third  
19 page, Judge, third page, Exhibit 17, this one was  
20 recommended by Master Bruce DalPra, wasn't it?

21 A. Yes.

22 Q. Okay. And if you go back to page 1 of  
23 Exhibit 17, on paragraph 2, can you tell whose

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1 handwriting that is for Kathleen Sternenberg?  
 2 A. This is a combination. Again, I am almost  
 3 certain. This is a combination between Master  
 4 DalPra's writing and -- for example, you will see  
 5 "Dana Albrecht." That to me looks like Master  
 6 DalPra's handwriting of that name. Below it appears  
 7 to be the handwriting of Aline Chasseur, who is his  
 8 courtroom clerk.

9 Q. Paragraph 2 of the appointment, it looks  
 10 like there's a name initially put in there and then  
 11 it's crossed out. Do you see that?

12 A. Yeah.

13 Q. Do you know whose name that was that was  
 14 initially put in there to be the guardian?

15 A. I have no idea. I never conducted a  
 16 hearing or prepared any forms in this case.

17 Q. Okay.

18 A. Oddly, I am familiar with it. This is  
 19 something of a notorious case. But all I know is  
 20 the name Albrecht and Albrecht.

21 Q. Is this a case where, because you  
 22 respected Master DalPra and he usually made good  
 23 judgments, you just looked at it quick and signed

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1 Q. Okay. But that name is stricken out and  
 2 above it is "Kathleen A. Sternenberg, Esq." Can you  
 3 see that?

4 A. Yes.

5 Q. Is that your handwriting, Judge?

6 A. That is.

7 Q. So do you remember the circumstances by  
 8 which Courtney Curran Vore was stricken out as  
 9 guardian and you inserted Kathleen Sternenberg?

10 A. I don't. I know she no longer handles  
 11 guardian cases, and that may have been an issue. I  
 12 see this was proposed by the respondent and would  
 13 have been -- would have been put together likely at  
 14 a hearing. So the respondent may have proposed her  
 15 only to find out in our discussion she no longer was  
 16 accepting guardian cases.

17 Q. Did you suggest Kathleen Sternenberg to  
 18 Ms. Yiatras?

19 A. I don't know if that was something tossed  
 20 up by one of the other attorneys or by myself.

21 Q. Do you think this was as a result of a  
 22 hearing?

23 A. I would think it would be a result of a

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1 it?

2 A. Absolutely. Again, I -- yes.

3 Q. Okay.

4 A. Appointment of a GAL form, I cosigned it.

5 Q. Let's look at Exhibit 18. This is orders  
 6 on appointment of guardian ad litem for Yiatras, if  
 7 I pronounced that correctly.

8 A. Uh-huh.

9 Q. Do you see that?

10 A. Yeah.

11 Q. And if you look at paragraph 2 on the  
 12 first page of Exhibit 18, it looks like the name  
 13 initially put on was Courtney Curran Ware (ph). Did  
 14 I read that right?

15 A. It's Vore, V-O-R-E.

16 Q. Courtney Curran Vore. Was Courtney Curran  
 17 Vore a GAL in the 9th Circuit?

18 A. She was.

19 Q. And so it looks like whoever initially  
 20 filled this out wanted Courtney Curran Vore. And  
 21 the address is Welts, White & and Fontaine. That's  
 22 a law firm in Nashua; correct?

23 A. Yes.

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1 hearing because I would not have scratched out  
 2 "Courtney Curran Vore" if that's who the parties  
 3 wanted.

4 Q. Okay.

5 A. You know, she could have told them  
 6 herself. I just suspect there was a conversation  
 7 that was related to this. I have no independent  
 8 recollection of that. Again, I am just kind of  
 9 looking at it forensically, if you will.

10 Q. Page 3 of Exhibit 18, you signed this on  
 11 February 22, 2017; correct?

12 A. Yes.

13 Q. And no recommendation by a marital master?  
 14 You did this on your own?

15 A. Right. Like I said, I likely -- I likely  
 16 conducted the hearing.

17 Q. Okay. Exhibit 21.

18 A. I don't have that one yet.

19 Q. You are going to have it in one second.

20 MR. WAYSTACK: 21, 22, and 23, Mike, and I  
 21 think we're sort of at the end of the exhibits.  
 22 I may have a few more questions.

23 MR. DELANEY: Phil, can I hand her all of

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1      those exhibits at the same time?		1      A. That was a problem in this case because I	
2      MR. WAYSTACK: Sure.		2      could not find the document.	
3      MR. DELANEY: 21, 22, and 23.		3      Q. Okay. But just answer my question.	
4      Q. (By Mr. Waystack) So flip through 21 for a		4      A. Okay.	
5 second.		5      Q. My question was you are likely the one who	
6      A. Okay. Oh, there we go. Yeah.		6      saved it if you are the one who typed it. Am I	
7      Q. So it's my understanding this is a draft		7      correct?	
8 of the beginning of your response to the Partello		8      A. Yes.	
9 complaint to the Judicial Conduct Committee. Would		9      Q. Thank you.	
10 you agree with that statement?		10     Exhibit 22 and 23 is simply the calendar	
11     A. That's right. It's a draft.		11 for December of '19 and January of '20. Do you see	
12     Q. Yeah. And for what it's worth, I was told		12 that?	
13 that it was on the, quote, "S-drive." I am not sure		13     A. Yeah.	
14 what that means. But anyhow, turn to page 3 of		14     Q. I don't want to take time. I was going to	
15 Exhibit 21, would you -- 3 and 4, Judge.		15 use this when we went through what happened the week	
16     A. Yeah.		16 of the 6th and the 13th, but your answers were	
17     Q. So the first things that you see in the		17 responsive. I didn't have to take that much time.	
18 first line, it looks like a "C" and then a "Y" with		18     A. Okay.	
19 a -- those look like stenographer's notes to me.		19     Q. I think that gets me through the exhibits.	
20 Did you learn stenography, Judge Introcaso?		20 Give me a minute here.	
21     A. I wish I had. But no. I have no idea		21     So, actually, we can use one of those	
22 what these two pages are.		22 exhibits. Use Exhibit 23 for a sec.	
23     Q. And it doesn't strike you as being		23     A. Okay.	
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1 stenographic notes or shorthand?		1      MR. WAYSTACK: And I am almost done; so	
2     A. No.		2      thank you all for your perseverance and energy.	
3     Q. I should say shorthand for anybody who		3      Q. (By Mr. Waystack) So if you look at	
4 remembers that. Only us old guys do.		4 Exhibit 23, Judge, the week that begins Monday,	
5     A. Honestly, this -- this came to me in some		5 January 6, we have talked about; right?	
6 form, and I have no idea what those are, what those		6     A. Yes.	
7 two pages are about.		7     Q. Do you understand we talked a lot about	
8     Q. Ultimately, you filed a more formal answer		8 the 9th; Thursday, the 9th? Remember?	
9 with the committee that was complete and attached a		9     A. Oh, yes.	
10 number of exhibits. Am I right?		10     Q. Then the following week we talked about	
11     A. Yes.		11 again. And I think what I understood you to say is	
12     Q. Okay. Do you remember drafting this and		12 the fact that you were given writing days on the 9th	
13 saving it on the S-drive in your court computer,		13 and the 10th. I understood it was a case that got	
14 Judge Introcaso?		14 canceled. You were thinking that it was days you	
15     A. I remember very clearly drafting it.		15 had reserved for vacation; correct?	
16     Q. Yeah.		16     A. That's right.	
17     A. How and -- how and when it was saved, I am		17     Q. And I think what you said to me was that	
18 not certain of.		18 the actual vacation days you reserved were not the	
19     Q. But you are the one who typed this;		19 9th and the 10th but rather the 16th and 17th of	
20 correct?		20 January?	
21     A. Yes.		21     A. That's right. I had put in for leave on	
22     Q. So the likelihood is you are the one who		22 the 16th and the 17th.	
23 saved it. Am I correct?		23     Q. Yeah.	

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1 A. And the clerk or clerks, whoever, put it  
 2 in on the 9th and the 10th accidentally. And when I  
 3 went to the 15th and 16th and I saw they were all  
 4 booked, I brought that to the attention of the  
 5 clerks, that I think they got the wrong Thursday and  
 6 Friday there. But it ended up leaving the 9th and  
 7 the 10th open.

8 Q. Okay. Did you end up going on vacation or  
 9 taking vacation days on January 16 and January 17,  
 10 2020?

11 A. I did.

12 Q. And how about the following week beginning  
 13 January 20?

14 A. I was not back until the 21st. The 20th  
 15 was Martin Luther King Civil Rights Day.

16 Q. Okay. So you came back to work on  
 17 January 21?

18 A. That's right.

19 Q. And then at some point after that, you  
 20 went on leave again, administrative leave, at the  
 21 decision of the New Hampshire Judicial Branch; is  
 22 that right?

23 A. That afternoon, the 21st.

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1 Q. The 21st? Okay.

2 Okay. Do you have a recollection of ever  
 3 telling Julie Lodes the names of the people on your  
 4 conflicts list?

5 A. I have no specific recollection of telling  
 6 her those names.

7 Q. I am going to ask you that same question  
 8 for Sherry Bisson. Did you ever tell her the names  
 9 of the people on your conflicts list?

10 A. I provided a list of the people with whom  
 11 I had a conflict to, I believe, Sherry. If it  
 12 wasn't Sherry, it may have been Kim Bonenfant, the  
 13 deputy clerk, when I first started work in Nashua.

14 Q. And was that a handwritten list, Judge?  
 15 Was it a typed list?

16 A. It was a typed list.

17 Q. Okay. Do you have a copy of that, by  
 18 chance?

19 A. I have asked to have access to my  
 20 computer. It may be there. But I have not been  
 21 given access to my computer to find it.

22 Q. You don't have an independent copy of  
 23 that?

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1 A. Again, if I did, it would be stored on my  
 2 computer.

3 Q. And my question to you is, in addition to  
 4 being stored on your computer, do you have a hard  
 5 copy of the document yourself?

6 A. No.

7 Q. Okay. And you seem to think you gave it  
 8 either to Kim Bonenfant or Sherry Bisson; is that  
 9 right?

10 A. That's correct, as well as the clerks in  
 11 Manchester.

12 Q. And when did you do that?

13 A. Within the first day or two when I came on  
 14 to serve in their courthouses. It's a traditional  
 15 first step. "Please let us know all your  
 16 conflicts."

17 Q. Did you ever send that list of conflicts  
 18 to Judge King or anybody in his office?

19 A. No. I was not asked to do so.

20 Q. Do you think it's the obligation of the  
 21 clerk staff to tell you who's on your conflict list?

22 A. No.

23 Q. It's your responsibility, isn't it?

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1 A. It's my responsibility to provide the  
 2 list, yes.

3 Q. It's your responsibility to recuse  
 4 yourself on conflicts, isn't it?

5 A. Yes.

6 Q. It's not the clerk staff's responsibility?

7 A. Absent a waiver, yes, it's my  
 8 responsibility.

9 Q. Pretty hard for people to waive a conflict  
 10 if they are not notified of it, isn't it, Judge  
 11 Introcaso?

12 A. Yes.

13 Q. And the people on your conflicts list are  
 14 the people you responded to me earlier when we began  
 15 this deposition with Exhibit 1; correct?

16 A. The only people on my conflicts list?

17 Q. Right.

18 A. Are the people that I mentioned earlier?

19 Q. You mentioned four people this morning.

20 A. Yeah. I have never added anybody onto  
 21 that list or taken anybody off of that list.

22 MR. DELANEY: Phil, I am just going to  
 23 object to the form relative to your reference

<p>1 to Exhibit 1.</p> <p>2 MR. WAYSTACK: That's fine. No problem.</p> <p>3 Okay.</p> <p>4 Q. (By Mr. Waystack) So I usually ask this at</p> <p>5 the beginning, Judge, but I am going to ask you now.</p> <p>6 What documents did you read in the last 30 days to</p> <p>7 prepare for this deposition?</p> <p>8 A. I was given an entire copy -- or what I</p> <p>9 believe was the entire copy of the JCC file, which</p> <p>10 included Ms. Partello's complaint, my answer, and</p> <p>11 the notice of charges along with other</p> <p>12 correspondence. I was given an entire copy of the</p> <p>13 Partello court file, Volume 1. And I have seen some</p> <p>14 documents from Odyssey.</p> <p>15 Q. Okay. With the exception of Attorney</p> <p>16 Michael Delaney, who have you spoken with in the</p> <p>17 last 30 days to prepare for this deposition?</p> <p>18 MR. DELANEY: I will just add Attorney</p> <p>19 Quinlan to that list.</p> <p>20 Q. (By Mr. Waystack) Attorney Quinlan too.</p> <p>21 Sorry.</p> <p>22 A. No one.</p> <p>23 Q. Okay. Did you read the transcripts of any</p>	<p>177</p> <p>1 speaking about your response to the Partello JCC</p> <p>2 complaint?</p> <p>3 MR. DELANEY: Objection to the form.</p> <p>4 Phil, just rephrase because you are mixing up a</p> <p>5 first name and a last name of a different</p> <p>6 person.</p> <p>7 MR. WAYSTACK: Thank you. I will</p> <p>8 rephrase.</p> <p>9 Q. (By Mr. Waystack) Other than speaking with</p> <p>10 clerk staff member Julianne Lodes and Nancy Dabilis</p> <p>11 during January of 2020, is there anyone else who you</p> <p>12 can recall speaking to in your chambers about your</p> <p>13 response to the Partello JCC complaint?</p> <p>14 A. Yes.</p> <p>15 Q. And who would that be?</p> <p>16 A. I know I spoke to Sherry, Sherry Bisson.</p> <p>17 I know I spoke to Mickey Fontanez, my court officer,</p> <p>18 you know, during that week time.</p> <p>19 Q. What day did you speak with Sherry Bisson?</p> <p>20 A. I may -- well, I may have spoken with</p> <p>21 Aline Chasseur as well.</p> <p>22 Q. Okay. What day did you speak with Sherry</p> <p>23 Bisson?</p>
<p>178</p> <p>1 of the depositions Attorney Delaney took of the</p> <p>2 court staff, Judge?</p> <p>3 A. No. Those haven't been provided to me.</p> <p>4 Q. Okay. Other than Julie Lodes and Nancy</p> <p>5 Dabilis, during the January 2020 time frame, was</p> <p>6 there anybody else that you met with in your</p> <p>7 chambers?</p> <p>8 MR. DELANEY: Objection to the form.</p> <p>9 Overbroad.</p> <p>10 You may answer the question.</p> <p>11 A. I couldn't begin to tell you all the</p> <p>12 people I had probably seen that week. Any number of</p> <p>13 staff members, regardless of whether they are in the</p> <p>14 family division, the criminal division, probate come</p> <p>15 into my office regularly.</p> <p>16 Q. (By Mr. Waystack) Okay. I get that.</p> <p>17 A. But no one I met with with respect to this</p> <p>18 case, no.</p> <p>19 Q. You anticipated my next question.</p> <p>20 A. People come and go all the time.</p> <p>21 Q. Whatever people may have visited you in</p> <p>22 January of 2020, not including Julie Lodes or Nancy</p> <p>23 Bisson [sic], do you have any recollection of anyone</p>	<p>180</p> <p>1 A. January 7.</p> <p>2 Q. The 7th?</p> <p>3 A. In my chambers on the 7th.</p> <p>4 Q. Tuesday?</p> <p>5 A. Tuesday, that's right.</p> <p>6 Q. And tell me about that conversation.</p> <p>7 A. That morning I had a scheduled full</p> <p>8 docket, but it ended not being a full docket. I</p> <p>9 ended up having quite a bit of available time that</p> <p>10 morning. I was in my office, basically, setting</p> <p>11 myself up for the day. It was fairly early in the</p> <p>12 morning. I knew I had some time.</p> <p>13 As I organized my work, Sherry came into</p> <p>14 my office and she had two files in her hand. And I</p> <p>15 assumed she wanted signatures on something, but it</p> <p>16 was sort of a, you know, "Can I help you?"</p> <p>17 And she indicated, you know, she was just</p> <p>18 waiting to talk to some other judge. As I said,</p> <p>19 there may have been another judge in Courtroom 5</p> <p>20 using my courtroom since I wasn't there -- or wasn't</p> <p>21 sitting there on the 7th. Judge Quigley's there.</p> <p>22 Master -- or Judge Derby would have been there. So</p> <p>23 there was a lot of people in the hall. And to me,</p>

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1 it seemed as though she was waiting to show some  
 2 files to someone. I asked her, "Do you need me to  
 3 help you?" Like, "Do you need my signature?"

4 She made it clear that, no, she didn't.  
 5 And I believe she's the one who then asked me, "Are  
 6 you are getting" -- you know, "Are you getting your  
 7 writing done? You know, have you been able to get  
 8 your writing going?"

9 And I said, "Well, I am setting aside the  
 10 9th and 10th," sort of as we learned yesterday. And  
 11 we just kind of started talking about what I had to  
 12 do before I went on vacation. And I mentioned to  
 13 her that, you know, I had one order that was three  
 14 months old that I was hoping to do on the 10th and  
 15 that I had my JCC complaint, which I was hoping to  
 16 complete on the 9th. And she asked me about both of  
 17 those, and we talked for a bit about the JCC  
 18 complaint.

19 Q. Okay. Do you remember showing her your  
 20 margin order in the Apple Pay order in Volume 1 of  
 21 the Partello file?

22 A. No.

23 Q. Part of her job is to make sure that the

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1 judges who work in the 9th Circuit prepare their  
 2 orders within -- I think it's -- is it 60 days,  
 3 Judge?

4 A. Thirty.

5 Q. Thirty days?

6 A. Every 30 days we're asked to say if we  
 7 have any pending orders that are more than 30 days  
 8 past the last event.

9 Q. And it's Sherry Bisson who is the one who  
 10 asks each of the judges; right?

11 A. It's Kim Bonenfant.

12 Q. Has Sherry ever asked you that question?

13 A. Occasionally, but it's not normally her  
 14 duty.

15 Q. She's actually sent you an email to say  
 16 that in the past, hasn't she?

17 A. She has, but I get a monthly one the 1st  
 18 or 2nd of the month from Kim Bonenfant. But Sherry  
 19 has occasionally asked.

20 Q. Is there anything else you recall about  
 21 that conversation?

22 A. We did speak about the order -- I am  
 23 sorry -- the complaint. And the distinguishing

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1 comment that I recalled to her was that, you know,  
 2 she asked me about how the complaint was going. I  
 3 told her that I was not particularly concerned about  
 4 the complaint because I had written quite a bit of  
 5 it already and responded to a number of the  
 6 allegations and that I really just needed to get  
 7 around to seeing this other order that I didn't know  
 8 what it was so that I could finish it up on  
 9 Thursday.

10 And she -- you know, in just talking, she  
 11 sort of reflected back to me that she got it wasn't  
 12 that big of a deal. It's not anything I was  
 13 panicking over. I mean, it was a conflict issue.  
 14 It's a serious issue, but I felt like I was going to  
 15 be able to get it done and written on the 9th.

16 And I said to her that I thought it was --  
 17 it was a really interesting complaint because there  
 18 were some really unique allegations made in the  
 19 complaint. And I said -- because I remembered, off  
 20 the top of my head, and I shared this with Judge  
 21 King earlier -- that she had made an allegation  
 22 along the lines of Judge Introcaso must have a  
 23 conflict because Dr. Johnson got appointed to this

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1 case to evaluate the child and Judge Introcaso's  
 2 last name is Johnson; so there must be a conflict  
 3 there, which to me struck me as a bit farfetched and  
 4 odd.

5 And I think Sherry was kind of amused by  
 6 it, frankly. And I said, "Oh, wait. It gets better  
 7 than that," sort of thing. And I picked up the  
 8 complaint, because I couldn't -- I couldn't remember  
 9 other than the "Johnson." I mean, that's very  
 10 personal. And I read her a number of the other  
 11 allegations that were made in the complaint that I  
 12 said, "I mean, I don't think I am going to have a  
 13 problem dealing with these. Okay? One has to do  
 14 with Judge Derby and" -- "who he works in the  
 15 legislature with." You know, and, I mean, I think  
 16 she just found it unusual, somewhat amusing, as I  
 17 did.

18 And then she says, "Oh, so you are not  
 19 going to have any problem."

20 And I said, "Well, I am going to have a  
 21 problem because, you know, I signed a couple of  
 22 these orders that I probably shouldn't have signed."  
 23 And that was kind of the nature of the discussion

<p>185</p> <p>1 all before the 9th.</p> <p>2 Q. Anything else you can remember about the 3 conversation?</p> <p>4 A. I don't. I recall talking about the 5 complaint with her.</p> <p>6 Q. Okay.</p> <p>7 A. And, like I said, and it was mostly 8 contained to, if I recall now, the last page of 9 Ms. Partello's allegations, which go into a lot of 10 things that -- you know, kind of she's killing time. 11 I am having a casual work discussion with her about 12 it.</p> <p>13 Q. Okay. So just to clarify -- thank you.</p> <p>14 So you talked about the complaint with Sherry Bisson 15 on January 7, 2020. When you talk about the 16 complaint, you are talking about Robin Partello's 17 judicial conduct complaint against you, Judge; 18 correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. And from what you -- your response, 21 it sounds like you had a fairly extensive discussion 22 about the nature of the complaint. Would you agree 23 with that statement?</p>	<p>187</p> <p>1 Sherry Bisson on the week of January 6th. I asked 2 you about the 6th. The conversation wasn't on the 3 6th. It was on the 7th, Tuesday, according to you.</p> <p>4 A. That's my recollection. It was in the 5 morning of the 7th.</p> <p>6 Q. And you had the file in front of you 7 during the conversation?</p> <p>8 A. It was on the left side of my desk. I 9 didn't have it during the conversation.</p> <p>10 Q. Let me ask you this specifically, Judge 11 Introcaso: Do you ever recall saying to Sherry 12 Bisson or to anyone else, for that matter, that you 13 were almost irritated, that how is it that this 14 Partello woman knows this information specifically 15 about Kathleen Sternenberg? Do you remember saying 16 that to anybody?</p> <p>17 A. Oh, yeah.</p> <p>18 Q. And who did you say that to?</p> <p>19 A. I initially mentioned it to Julie Lodes, 20 which is why I suggested earlier she wanted to go 21 get a tape. Because apparently Ms. Partello was 22 speaking on tape and making a lot of these same 23 allegations at a hearing before Judge Derby, I</p>
<p>186</p> <p>1 A. It was detailed, but I don't think it was 2 more than a three- or four-minute exchange.</p> <p>3 Q. Okay. And specifically what you recall is 4 that Ms. Partello made comments about a Dr. Johnson 5 maybe being related to you because your maiden name 6 was Johnson?</p> <p>7 A. Right, which we both got something of a 8 chuckle out of, candidly.</p> <p>9 Q. Of course, that's not the case?</p> <p>10 A. That's right. I don't know Dr. Johnson. 11 Well, I'm not related.</p> <p>12 Q. That's why you thought it was funny; 13 right?</p> <p>14 A. I thought that it was a bit of a stretch, 15 candidly, yes.</p> <p>16 Q. Did you think the part about her being 17 irritated about the March 12, '19, Apple Pay and 18 exceed-the-cap order was a stretch?</p> <p>19 A. No. I think she had reason to complain 20 that that was a conflict of interest. And, like I 21 said, I -- I acknowledge that I had written those 22 orders.</p> <p>23 Q. Okay. So you had a conversation with</p>	<p>188</p> <p>1 believe.</p> <p>2 Q. Right.</p> <p>3 A. I think I mentioned to Judge Leary, you 4 know, that she had made some kind of unusual 5 allegations with respect to the ethics code.</p> <p>6 Q. Did you say it to Sherry Bisson?</p> <p>7 A. Oh, yeah.</p> <p>8 Q. Okay.</p> <p>9 A. Like I said, I read her some of the 10 allegations.</p> <p>11 Q. All right. So let's -- you also said that 12 you were confused -- there was an order you were 13 looking for. Do you remember that?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And the order you were looking for 16 is the three-page Sua Sponte recusal order; right?</p> <p>17 A. Right.</p> <p>18 Q. Wasn't it?</p> <p>19 A. Right.</p> <p>20 Q. That was the order you were looking for?</p> <p>21 A. Right.</p> <p>22 Q. And the way I understand it, and you 23 correct me if I am wrong, you had forgotten in</p>

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<p>1 January of 2020 that you had written that order back 2 on March 15 of '19, hadn't you?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And do you remember who it was who 5 showed you the order or told you about the order?</p> <p>6 A. Ms. Partello told me about the order in 7 the writing of her complaint. Like I said, she 8 referenced it in her complaint.</p> <p>9 Q. I understand. Okay. Hold on. Hold on. 10 I want to go back to -- you are moving on. We were 11 talking about having discussions with the court 12 staff, Julie Lodes, Sherry Bisson, Judge Leary, in 13 the week of January that begins the 6th. I am 14 specifically referring now to Exhibit 9 in this 15 deposition, which is a three-page handwritten order.</p> <p>16 A. Yeah.</p> <p>17 Q. Did any one of those three people I just 18 mentioned, Sherry Bisson, Julie Lodes, or Judge 19 Leary, call your attention to the Exhibit 9, which 20 is the March 15, '19, handwritten recusal order?</p> <p>21 A. No.</p> <p>22 Q. How was it that you learned about that? 23 Did you find that on your own?</p>	<p>1 your testimony?</p> <p>2 A. The three-page handwritten order, yes.</p> <p>3 And I found it.</p> <p>4 Q. Go ahead.</p> <p>5 A. I found it, and that was the first time I 6 had read it since I had written it in March.</p> <p>7 Q. And when you read that order on January 9, 8 2020, you realized where Robin Partello got much of 9 the information for her complaint, didn't you?</p> <p>10 A. Yes.</p> <p>11 MR. WAYSTACK: I have no further 12 questions.</p> <p>13 THE WITNESS: Thank you.</p> <p>14 MR. WAYSTACK: I am sure you are all 15 happy. Sorry to keep you so long.</p> <p>16 THE WITNESS: No. That's fine. When 17 Judge Morrill says we have got to get the 18 dinner menus, that moves him right along.</p> <p>19 MR. WAYSTACK: Tina, thank you very much. 20 Michael and Amanda, thank you.</p> <p>21 Judge Introcaso, thank you for making 22 yourself available.</p> <p>23 MR. DELANEY: Phil, you are making a</p>
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<p>1 A. When I opened the file on Thursday, the 2 9th, my first step -- although let me go back. I 3 checked my computer first thing that morning to see 4 if I had any orders that I had written about 5 Partello. Okay? Because she alleged that I wrote 6 some order.</p> <p>7 So as I am logging on that morning, the 8 very first thing I did -- and my computer is all 9 alphabetical. I have every order. I searched for 10 "Partello," found no order in this case, which 11 struck me as even more odd. I turned. I got my 12 file. And I went looking for the order, flipping 13 through the file because the case summary just says 14 "Order." It didn't tell me what it was about.</p> <p>15 So I saw in the case summary there was an 16 order there. I am not even sure if it said my name. 17 But I started looking through the file to find that 18 three-page handwritten order first thing on the 9th. 19 That's the only thing I had not addressed. That's 20 the time in which I noted the Wite-Out being applied 21 to the file.</p> <p>22 Q. And that's when you found the handwritten 23 order, which is Exhibit 9; is that right? Is that</p>	<p>1 presumption that I don't have any questions, 2 which is a good presumption, but it's not case.</p> <p>3 MR. WAYSTACK: Sorry.</p> <p>4 EXAMINATION</p> <p>5 BY MR. DELANEY:</p> <p>6 Q. First, just very quickly, Judge Introcaso, 7 when you were asked about your conversations with 8 Julianne Lodes about the Partello complaint, you 9 mentioned you had been speaking to her for a month 10 or a month and a half. Do you recall that 11 statement?</p> <p>12 A. Yes.</p> <p>13 Q. So you spoke to her, as you stated, on 14 January 9; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. And you have also stated that you came 17 back to the courthouse on December 16?</p> <p>18 A. Yes.</p> <p>19 Q. Did you have any conversations with Julie 20 Lodes about the Partello complaint when you were not 21 in the courthouse before you returned?</p> <p>22 A. I have no recollection of that, no.</p> <p>23 Q. So recognizing that you came back to the</p>

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1 courthouse on the 16th and you were working with  
 2 Julie Lodes from the 16th of December to January 9,  
 3 can you be more precise about the period of time  
 4 when you were speaking to her about the Partello  
 5 complaint?

6 A. Yeah. It was probably closer to three  
 7 weeks over the holiday season.

8 Q. Attorney Waystack asked you a pointed  
 9 question about whether you had used Wite-Out to  
 10 obscure the orders using Wite-Out tape. Do you  
 11 recall that question?

12 A. Yes.

13 Q. And I take it you took issue with his use  
 14 of the word "obscure" because, as a judge, you know  
 15 that may have criminal significance; is that right?

16 A. That would be fair to say.

17 Q. Do you have any other memory presently  
 18 about how Wite-Out became applied to the March 12  
 19 orders?

20 A. I do.

21 Q. Can you tell me what you remember about  
 22 reviewing the March 12 orders -- strike that.

23 Can you tell me what you remember about

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1 reviewing the motion to exceed fee cap and the Apple  
 2 Pay order on March 12?

3 A. Both of those motions came to me in the --  
 4 in what I call the general signing pile. On the  
 5 third floor of the courthouse, we have two different  
 6 cubbies. The civil and criminal folks sign in one  
 7 cubby. The family division generally signs things  
 8 in the other cubby.

9 On the 12th, I had time available to me  
 10 and went to sign at the signing cubby. And those  
 11 two motions were in a file in the pile of signing.  
 12 And I remember specifically the Apple Pay order. I  
 13 have never -- I never had anyone request to pay  
 14 anything by Apple Pay in the court; so it sort of  
 15 stuck out for me. So I do have a recollection of  
 16 reading the Apple Pay order and a recollection of  
 17 reading the motion to exceed fees. They were right  
 18 by each other. There were signature -- little  
 19 stickies to tell you where to sign.

20 And, as I explained earlier, I thought  
 21 both of those motions were motions -- given the fact  
 22 that they didn't seem to particularly favor one side  
 23 or the other with respect to the motion to exceed.

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1 With respect to the Apple Pay order, I thought I  
 2 could very easily, without there being any issue of  
 3 conflict, make a simple statement: "Court fees and  
 4 GAL fees need to be paid by, you know, sort of legal  
 5 acceptable tender."

6 So I made both of those orders and made  
 7 some other orders, but I put them on top of the file  
 8 pile before I carried them downstairs.

9 Q. Let me stop you there. Did you initially  
 10 execute those orders while at the signing table?

11 A. Yes.

12 Q. And is that the signing table on the third  
 13 floor of the courthouse?

14 A. Yes.

15 Q. You began to describe returning those  
 16 files to the clerk's office.

17 A. Right.

18 Q. What do you remember about that?

19 A. Once I got done with all the signing that  
 20 I could do, piled the files up, put the Partello  
 21 file on top because I needed to speak with staff  
 22 about that file, I took it downstairs. I gave it --  
 23 I put the files I didn't have any particular issues

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1 with in our regular signed, ready-to-be-issued pile.  
 2 I took the Partello file to Julie Lodes  
 3 and told her that I had made two orders in this case  
 4 and that I would like them processed as quickly as  
 5 possible. I wanted them to go out today. And she  
 6 stopped what she was doing, and she processed those  
 7 orders.

8 After having left them with Julie, I went  
 9 over to talk with Nancy Dabilis.

10 Q. Why did you go talk to Nancy Dabilis?

11 A. Because I realized I needed to disclose my  
 12 conflict, deal with the issues with respect to the  
 13 two motions that I had just ordered -- or made  
 14 orders on, and to determine whether or not the  
 15 parties wanted to go forward, I think it was, in  
 16 March or April, very shortly after those motions,  
 17 and things of that nature.

18 Q. Do you have a specific recollection of  
 19 speaking to Clerk Dabilis on the 12th?

20 A. Yes.

21 Q. Tell me what you remember.

22 A. I went to Nancy, who I had been instructed  
 23 was to do my scheduling. And she and I started

<p>197</p> <p>1 working together to find an available spot on my 2 docket, to find the hour which I requested. I 3 requested an hour for this status conference because 4 I knew I had multiple issues to discuss: the 5 disclosure, whether or not they wanted me 6 disqualified, whether or not they wanted the orders 7 of the 12th vacated, et cetera. So Nancy and I 8 worked together to find an hour of time as soon as 9 possible.</p> <p>10 Q. And just -- do you remember what hour of 11 the day you were able to locate?</p> <p>12 A. Oh. I gave them a 3:00-to-4:00-o'clock 13 spot.</p> <p>14 Q. And what was the significance of the 3:00- 15 to-4:00-o'clock spot?</p> <p>16 A. I don't schedule between 3:00 and 4:00.</p> <p>17 Q. So that would have been a time of day when 18 you would regularly have openings on your calendar?</p> <p>19 A. Yeah. I would be writing, finishing up 20 orders, or doing signing at the end of the day.</p> <p>21 Q. And, again, what was your intent in 22 scheduling at that time?</p> <p>23 A. By the time I handed the orders to Julie,</p>	<p>199</p> <p>1 A. Sum and substance.</p> <p>2 THE WITNESS: Can you not hear me?</p> <p>3 MR. WAYSTACK: Yeah. No. I am --</p> <p>4 objection to the form of the question, Judge.</p> <p>5 THE WITNESS: Oh. I apologize.</p> <p>6 Q. (By Mr. Delaney) After you spoke to Nancy 7 Dabilis regarding scheduling of the status 8 conference, do you recall anything else that 9 happened on March 12 related to the Partello case 10 file?</p> <p>11 A. Yes.</p> <p>12 Q. What do you remember?</p> <p>13 A. As I was standing at Nancy's desk and we 14 had come up with a time slot within that 15 reconsideration period -- it had to be within, you 16 know, 10 days of the 12th -- Julie Lodes walked by 17 from her desk with a hand of envelopes that had the 18 notices of decision in them and made a comment to me 19 along the lines of, "Well, if you are having a 20 hearing, why are we sending out the orders?"</p> <p>21 And I simply looked at her and I said, 22 "Because I made those orders. Send them out. You 23 have got to send the orders out."</p>
<p>198</p> <p>1 I had already made a decision that I have a conflict 2 in this case and that I have to take steps to remedy 3 that somehow. Whether it's disclose and ask if they 4 would like to waive, whether it's disclose and have 5 them ask me to recuse myself, I didn't know how that 6 discussion would end in the courtroom.</p> <p>7 But there were also two substantive 8 motions, motions for contempt, that were pending 9 that would need to be dealt with, and there were the 10 two orders that I had issued on the 12th that I 11 intended to revisit when they came back in on the 12 19th. And I had disclosed to them that "I wrote 13 these orders. And now that you know that I have a 14 conflict, if you have any objection to these orders, 15 I am happy to reconsider them."</p> <p>16 Q. So it was your intention, when you spoke 17 to Nancy Dabilis, to schedule a status conference on 18 the 19th to revisit the orders you had just issued 19 after you disclosed the conflict to the parties at 20 the status conference?</p> <p>21 A. In essence, yes.</p> <p>22 MR. WAYSTACK: Objection to the form. You 23 may answer.</p>	<p>200</p> <p>1 So that's what she did. And later I 2 believe she also issued the notice of hearing, but I 3 am not really clear on that. But I knew that the -- 4 I knew the hearing date had been selected. I 5 believe Julie overheard that the hearing date had 6 been selected, because she asked me that question, 7 which I specifically remember, "If we're going to 8 have a hearing, why are we issuing these orders?"</p> <p>9 Q. Did you have any other physical contact 10 with the Partello case file on March 12 as these 11 conversations were occurring?</p> <p>12 A. While Nancy, again, was doing part of the 13 scheduling part of it, Julie had put the notice of 14 decisions and the motions back into the file. And 15 when Nancy and I kind of confirmed I had this hour 16 open and we were going to do a notice of hearing and 17 get that sent out today as well, I began to apply 18 Wite-Out over my orders that I made on the 12th, 19 knowing that on the 19th I was going to have to 20 change those orders, if only to add "following a 21 hearing where the parties hereby, you know, waive 22 this judge's participation in this matter." I was 23 going to have to do something on the 19th to either</p>

<p>201 1 reaffirm after a waiver or vacate after a waiver. 2 Something was going to have to be done on the 19th. 3 So as I was standing there waiting for 4 things to be processed, I put Wite-Out on those 5 orders.</p> <p>6 Q. So if you were going to revisit the orders 7 on the 19th, why did you have to apply Wite-Out to 8 them on the 12th?</p> <p>9 MR. WAYSTACK: Objection to the form.</p> <p>10 You may answer.</p> <p>11 A. I didn't have to. I didn't have to. It 12 was a -- it was -- I don't know if it was 13 anticipatory, knowing that I was going to have to 14 issue some new order. I don't -- it wasn't 15 particularly well thought out on my part. I knew 16 that I would have physical possession of that file 17 until the 19th. Once all the processing was going 18 to get done, it was going to go back into my little 19 hands until that hearing took place on the 19th.</p> <p>20 I did not anticipate that a motion to 21 continue would come in. And when the motion to 22 continue did come in, I, again, knew at that point I 23 have to get out of the case, wrote the order, and I</p>	<p>203 1 10-day period of reconsideration, which I knew I was 2 going to disclose on the 15th. They would have 3 plenty of time if they wanted to object to them. 4 I guess I didn't see at the time, in my 5 own thinking, that I needed to vacate them, per se. 6 I knew they would need to get addressed, and I 7 simply forgot on the 15th to address them in my 8 order. And I didn't, on the 15th, go back and go, 9 "Oh, jeez. Now that I am not going to touch this 10 case, I have got to deal with putting something in 11 on the 12th." You know, "Consistent with my 12 narrative order, Court hereby vacates these." I 13 could have done that. I think there was probably 14 about 10 or 15 options I could have taken but, 15 unfortunately, under the circumstances, did not get 16 that done.</p> <p>17 Q. So I want to take you back to January 9 of 18 2020 when you were talking to Julianne Lodes about 19 what had happened to this file. On January 9 of 20 2020, did you remember this interaction with the 21 case file on March 12 that you just described to me?</p> <p>22 A. I have no recollection whatsoever.</p> <p>23 Q. You spoke to Mary Ann Dempsey and</p>
<p>202 1 never went back to vacate or write something more 2 clear over where I had anticipated writing an order 3 post the 19th hearing.</p> <p>4 Q. Attorney Waystack asked you about whether 5 you vacated the March 12 orders in your March 15 Sua 6 Sponte order; is that right?</p> <p>7 A. Right.</p> <p>8 Q. Why didn't you just vacate the orders?</p> <p>9 A. I just didn't, and I thought the orders 10 could stand until we had that hearing on the 19th. 11 It didn't -- like I said, it didn't occur to me, 12 during the lunch hour when I was handwriting this 13 order, that those orders of the 12th should be 14 immediately addressed. I just didn't -- I realized 15 I should have either gone back and vacated them once 16 I wrote the substance of my disclosure and 17 disqualification. I should have dealt with the 18 motions on the 12th.</p> <p>19 The notices of decision were fine, but the 20 motions needed to have something put on them like, 21 you know, "The Court's recused, to be scheduled in 22 front of another judge," or I could have vacated the 23 orders. But, frankly, at that point, I was in the</p>	<p>204 1 Judge King and Judge Ashley on January 21 of 2020 2 about the Partello case file and the whiteouts; is 3 that right?</p> <p>4 A. Yes.</p> <p>5 Q. Did you have any memory, when you spoke to 6 them, about the interactions you had with this file 7 on March 12 that you have just described?</p> <p>8 A. No.</p> <p>9 Q. The Judicial Conduct Committee -- let 10 me -- just answer my question. The Judicial Conduct 11 Committee in March and April of 2020 asked you to 12 discuss alterations to these orders; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And when you first responded to the 15 Judicial Conduct Committee a couple of months after 16 January of 2020, did you remember your involvement 17 with this case file on March 12, as you just 18 testified?</p> <p>19 MR. WAYSTACK: Objection to the form.</p> <p>20 You may answer.</p> <p>21 A. I may have been thinking about what 22 happened when this stuff got processed, but I didn't 23 have any real specific recollections, no.</p>

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1 Q. (By Mr. Delaney) So how is it that you  
 2 have come to remember what you did to the file on  
 3 March 12 when you didn't remember it earlier?  
 4 A. Sometime, I guess, early in the summer --  
 5 and, mind you, this has been playing over in my head  
 6 for 13 months -- I recall very distinctly Julie  
 7 Lodes saying, "So do you want me to send these out,  
 8 or are we going to have a hearing?" I remembered  
 9 that statement being made. If I could say, same way  
 10 when I called Judge King the day after the  
 11 interview, I remembered having the Johnson  
 12 discussion. I didn't remember anything else about  
 13 it, but I remembered those phrases.

14 So I -- I remembered that, and it started  
 15 to sort of bring me into the place of where that  
 16 comment was made. You know, I could now envision  
 17 myself downstairs on the first floor and like -- I  
 18 started asking myself, "Why would Julie not want to  
 19 send that out?" I mean, I just -- it kind of  
 20 started, frankly, coming together for me.

21 And then I remembered -- I still hadn't  
 22 seen the file. But I was like, "I scheduled" -- "I  
 23 did. I scheduled a hearing right then and there for

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1 that," and sort of, "Why was that?"  
 2 And, candidly, I don't know how memory  
 3 works. But the more I thought about it, the clearer  
 4 it became. And, you know, we had a period of  
 5 probably four or five months where nothing at all  
 6 happened in this case.

7 Q. Do you remember when you received the  
 8 statement of formal charges?

9 A. Late October.

10 Q. Was that the first time that anyone had  
 11 formally accused you of potentially whiting out the  
 12 file in March of 2019?

13 A. Yes. I believe so.

14 Q. And tell me -- tell me what happened after  
 15 you read the statement of formal charges.

16 A. I was certain I didn't do anything in  
 17 January. And then I read the formal charges, and it  
 18 was sort of, like, sometime, anytime between this  
 19 date and that date, and it wasn't real specific.

20 But it -- it made me wonder, like, "What are  
 21 they" -- "What are they thinking about?" You know,  
 22 like -- and I was trying to think about "Why in the  
 23 world would I have done something like that prior?"

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1 It just didn't make any sense to me, but it did make  
 2 me start to think more and more about March.  
 3 And I remember -- like I said, I remember  
 4 Julie's statement, "If we're scheduling this  
 5 hearing...." I started to remember hovering over  
 6 Nancy, sharing a computer screen, telling her, like,  
 7 "Don't put it there. No. Don't put it" -- "Oh,  
 8 squeeze it in there." I started to remember what  
 9 happened that afternoon.

10 I remember someone on the staff asking a  
 11 question about like, "Well, can you send out the  
 12 notice of decision?" and things like that. And it  
 13 just kind of all came together for me.

14 And I remember, when Julie said something  
 15 about, "If you are not going to make a decision,  
 16 why" -- or, "If we're going to have a hearing, why  
 17 are you making a decision?" And right around the  
 18 time she asked me that is when I started to apply  
 19 the Wite-Out.

20 As I stood in front of Nancy's desk,  
 21 there's a little -- there's a little "T," if you  
 22 will, where the cubbies meet. I hate to say it.  
 23 Workstations, I think that's the more professional

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1 term. And that's often where there would be files  
 2 stacked up for me to sign, you know, just a quick  
 3 signature on a bail bond or something. But I used  
 4 that little square as I am sort of talking to Nancy,  
 5 and I believe I took Kim Silva's Wite-Out and  
 6 started to take the order out with the idea that,  
 7 you know, because we're going to have to address  
 8 these on the 19th.

9 Q. So let me stop you there. What's your  
 10 best explanation for why you remember this now but  
 11 you didn't remember it in January of 2020?

12 A. Well, it's the one and only case I have  
 13 had all year; so I have given it a lot of thought.  
 14 I spent several months emotionally and mentally  
 15 racking my brain about why people were accusing me  
 16 of doing this in January when I was absolutely  
 17 certain that that was not the case. And it wasn't,  
 18 frankly, until about the summer when things started  
 19 to kind of slow down and, frankly, I started to  
 20 relax a little bit, and I think my memory got a  
 21 little bit better. And the more I started to kind  
 22 of learn about the case just in talking with my  
 23 attorney -- as I said, it's like a prompting or --

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1 you know?  
 2 I don't understand how memory works. But  
 3 with each piece of the puzzle, it more and more kind  
 4 of started to fit together. And when I read the  
 5 notice of charges and started to really think about  
 6 March, it probably took 48 to 72 hours for me to  
 7 really kind of crystalize a lot more of what  
 8 happened that day, like riding down in the elevator  
 9 and in the elevator thinking to myself, "I have got  
 10 to get out of this case. This is craziness."

11 So I don't know. It was -- I was actively  
 12 trying not to think about this very disappointing  
 13 period in my life for many months. But when it came  
 14 time to read legal things and such, it brought me  
 15 back to that. And I -- my memory just sort of  
 16 crystalized. To me, it's not unusual. It's like  
 17 seeing these cases from five years ago. I remember  
 18 the name. I couldn't tell you anything about the  
 19 case. But if you told me a couple more things, I  
 20 might start putting it together.

21 MR. DELANEY: With the understanding that  
 22 Judge Introcaso will be available to testify at  
 23 the hearing, I have no further questions.

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1 MR. WAYSTACK: Of course, I am going to  
 2 have a few now. And I apologize to everybody.

3 FURTHER EXAMINATION

4 BY MR. WAYSTACK:

5 Q. Judge Introcaso, I want to understand you  
 6 clearly. Are you now admitting that you whited out  
 7 the March 12, '19, Apple Pay order?

8 A. Yes. I put Wite-Out over the -- over the  
 9 portion of the motion that I had written, "Granted.  
 10 You must pay by check," et cetera.

11 Q. Are you now admitting that you whited out  
 12 the March 12, 2019, exceed-the-cap order?

13 A. Yes. I put Wite-Out over my handwritten  
 14 part of the order.

15 Q. You were responding to Attorney Delaney's  
 16 questions and talking about a discussion with Julie  
 17 Lodes in the summer. The summer of what year?

18 A. I apologize. I don't recall saying I  
 19 talked to Julie Lodes in the summer.

20 Q. The record will reflect that you did.

21 Which year were you talking about?

22 A. The only summer since I have been working  
 23 there -- I haven't spoken to her -- is this summer

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1 of 2020. I apologize, Counsel. If you could be  
 2 more -- I honestly don't recall saying I spoke with  
 3 her in the summer about something.

4 Q. Okay. You are saying that you whited out  
 5 both of those orders while standing at Nancy  
 6 Dabilis's desk?

7 A. Yes.

8 Q. Is that what you are saying?

9 A. Yes.

10 Q. Okay.

11 A. Right -- well, right between Nancy and Kim  
 12 Silva, who is right next to her.

13 Q. And did Nancy Dabilis witness you whiting  
 14 out those orders?

15 A. I believe she did.

16 Q. Okay. And who else would have witnessed  
 17 you whiting out those orders?

18 A. I don't know if -- perhaps Kim Silva,  
 19 because, like I said, she was right next door.  
 20 She's on the other side of a 3-foot wall there. And  
 21 I don't think Julie Lodes did, but I know that she  
 22 believed -- she knew that I had. I shouldn't say  
 23 she believed that. She knew that I had, because she

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1 asked me that question.

2 Q. Julie Lodes did?

3 A. She asked me that question. Like, I  
 4 remember her distinctly with the envelopes in her  
 5 hand saying, "Well, then why am I sending out these  
 6 decisions if you are just going to have a hearing?"

7 Q. When did she say that to you, Judge?

8 A. As she walked around the corner, she was  
 9 heading to put them in the mail; because I told her,  
 10 "I want them to go out today."

11 Q. I am asking you, Judge, what date that she  
 12 said that to you.

13 A. Oh. That was March 12, when she was  
 14 processing the motions.

15 Q. Yeah. And you know that those orders went  
 16 out, don't you?

17 A. Yes.

18 Q. So what you have admitted to doing is  
 19 altering a court order after it was issued. Do you  
 20 understand that?

21 A. I disagree with that.

22 Q. Well, you have just admitted it under  
 23 oath, Judge, that you have obstructed two court

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<p>1 orders after you know they were mailed out.</p> <p>2 MR. DELANEY: Objection to the form.</p> <p>3 You may answer the question.</p> <p>4 A. Again, I disagree with that.</p> <p>5 Q. (By Mr. Waystack) Judge Introcaso, I just</p> <p>6 asked you -- and you responded -- did you know that</p> <p>7 those orders, the Apple Pay order and the</p> <p>8 exceed-the-cap order with your handwritten margin</p> <p>9 order, went out on March 12?</p> <p>10 A. Yes.</p> <p>11 Q. And your answer was, "Yes."</p> <p>12 A. Yes.</p> <p>13 Q. So knowing that those orders had been</p> <p>14 issued to the parties with your handwritten margin</p> <p>15 notes on each order, you then obstructed those by</p> <p>16 whiting out the handwritten order, didn't you?</p> <p>17 MR. DELANEY: Same objection to the form.</p> <p>18 You may answer the question.</p> <p>19 A. I disagree. I -- I put Wite-Out over what</p> <p>20 I had signed on the motion. The notice of decision</p> <p>21 was not touched. The computer system where all that</p> <p>22 information was entered was not touched. It was not</p> <p>23 my intention to vacate it. It was simply my</p>	<p>1 after it had been sent out to the parties; isn't</p> <p>2 that the truth?</p> <p>3 A. Yes.</p> <p>4 Q. And you are just remembering that recently</p> <p>5 now, is that it?</p> <p>6 A. Within, I would say, the past three months</p> <p>7 maybe.</p> <p>8 Q. So the mystery of who whited out the</p> <p>9 March 12 Apple Pay order and exceed-the-cap order is</p> <p>10 over. And it was you, Judge Introcaso, who actually</p> <p>11 applied the Wite-Out to your handwritten margin</p> <p>12 orders in each of those orders; correct?</p> <p>13 A. I applied the Wite-Out on those orders,</p> <p>14 yes.</p> <p>15 Q. Who else did you tell that to,</p> <p>16 Judge Introcaso, other than your attorney?</p> <p>17 A. No one.</p> <p>18 MR. WAYSTACK: I have no further</p> <p>19 questions.</p> <p>20 THE WITNESS: Can we consult for just one</p> <p>21 moment?</p> <p>22 MR. WAYSTACK: Sure.</p> <p>23 MR. DELANEY: So we'll take a short break.</p>
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<p>1 intention to get myself going on a hearing I was</p> <p>2 going to do in three or four days, court days mind</p> <p>3 you. And I was going to have to write a different</p> <p>4 order. I couldn't -- I couldn't let that order</p> <p>5 stand without the disclosure, which I was fully</p> <p>6 prepared to do and had a hearing scheduled for it.</p> <p>7 Q. (By Mr. Waystack) But you did? You did</p> <p>8 let those obstructions go out without addressing it,</p> <p>9 didn't you?</p> <p>10 MR. DELANEY: Same objection.</p> <p>11 You may answer the question.</p> <p>12 Q. (By Mr. Waystack) Didn't you, Judge?</p> <p>13 A. No obstructions went out to anybody.</p> <p>14 Q. You whited out part of a court order with</p> <p>15 your handwritten order after you knew the orders</p> <p>16 went out, didn't you?</p> <p>17 A. I put --</p> <p>18 Q. Answer my question, please.</p> <p>19 A. Yes. I put Wite-Out on the handwritten</p> <p>20 portions of my order after I had asked Julie to</p> <p>21 "Please just send the orders out."</p> <p>22 Q. Okay. So the answer to my question is you</p> <p>23 whited out a portion of a handwritten court order</p>	<p>1 THE WITNESS: Literally, 30 seconds.</p> <p>2 (Off the record.)</p> <p>3 MR. DELANEY: I am just going to put an</p> <p>4 objection on the record to the extent that your</p> <p>5 last question may have implicated medical</p> <p>6 privilege.</p> <p>7 THE WITNESS: I just wanted to be --</p> <p>8 MR. WAYSTACK: Wait, wait, wait. Hold</p> <p>9 there, Judge.</p> <p>10 Michael, I didn't -- you objected to the</p> <p>11 extent what?</p> <p>12 MR. DELANEY: That your last question</p> <p>13 implicated medical privilege.</p> <p>14 MR. WAYSTACK: Medical privilege? Okay.</p> <p>15 THE WITNESS: You asked if I understood --</p> <p>16 MR. WAYSTACK: Look, your lawyer just made</p> <p>17 the objection. There's no pending question,</p> <p>18 Judge. Hold on.</p> <p>19 Michael, anything else you want to say?</p> <p>20 MR. DELANEY: No.</p> <p>21 MR. WAYSTACK: I think we're done.</p> <p>22 (The deposition concluded at 6:20 P.M.)</p> <p>23</p>

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## 1 E R R A T A P A G E

2 I, HONORABLE JULIE A. INTROCASO, the  
3 witness herein, have read the transcript of my  
4 testimony and the same is true and correct, to the  
best of my knowledge, with the exception of the  
following changes noted below, if any:

5 Page/Line	Change/Reason
6 _____	_____
7 _____	_____
8 _____	_____
9 _____	_____
10 _____	_____
11 _____	_____
12 _____	_____
13 _____	_____
14 _____	_____
15 _____	_____
16 _____	_____
17 _____	_____
18 _____	_____
19 _____	_____

HONORABLE JULIE A. INTROCASO

20 Sworn to and subscribed before me,  
21 this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

22 \_\_\_\_\_  
23 Notary Public  
My commission expires:

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## 1 C E R T I F I C A T E

2 I, Tina L. Hayes, a Licensed Shorthand Reporter  
3 and Notary Public of the State of New Hampshire, do  
4 hereby certify that the foregoing is a true and  
5 accurate transcript of my stenographic notes of the  
6 deposition of HONORABLE JULIE A. INTROCASO, who was  
7 duly sworn, taken on the date hereinbefore set  
8 forth.

9 I further certify that I am neither attorney  
10 nor counsel for, nor related to or employed by any  
11 of the parties to the action in which this  
12 deposition was taken, and further that I am not a  
13 relative or employee of any attorney or counsel  
14 employed in this case, nor am I financially  
15 interested in this action.

16 THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT  
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22 \_\_\_\_\_  
23 Tina L. Hayes, RPR, LCR

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